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GOVERNMENT OF INDIA



ADMINISTRATIVE REFORMS COMMISSION

# REPORT



# ADMINISTRATION

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CHAIRMAN,

ADMINISTRATIVE REFORMS COMMISSION,  
GOVERNMENT OF INDIA,  
SARDAR PATEL BHAVAN,  
NEW DELHI,

July 20, 1968.

My dear Prime Minister,

I am presenting herewith the report of the Administrative Reforms Commission on Economic Administration. The area of Economic Administration is so vast and varied that the Commission appointed one Study Team and two Working Groups to inquire into the numerous problems. The Study Team on "Economic Administration" was headed by Shri C. H. Bhabha, a former Central Cabinet Minister for Commerce and Industry. The Working Group on "Developmental Control, and Regulatory Organisations" had as its Chairman Shri Manubhai Shah, another former Central Cabinet Minister. The second Working Group on "Company Law Administration" was presided over by Shri D. L. Mazumdar, formerly Secretary to the Department of Company Law Administration. The Members of the Study Team and the two Working Groups were men of great knowledge and experience in the field. Their reports contain penetrating analyses and useful suggestions. These three reports (copies enclosed) and discussions with other persons of experience and wisdom have enabled the Commission to formulate their recommendations. The Chairman and Members of the Study Team and the two Working Groups deserve high appreciation for the patriotic work they have so painstakingly done.

2. We have recommended that the subjects of Commerce and Industry should be combined under a single Ministry of Commerce and Industry. It should be responsible for policies and strategies for the integrated development of Industry and Commerce in the country. We have also made proposals to make the Directorate-General of Technical Development more useful and efficient. It has to function as a common technical service agency to all the concerned. We have suggested as well the constitution of Textile and Coal Development Boards to promote balanced and speedy growth of these industries.

3. Recognising the need for the maximum utilisation of the industrial potential already created in the country, we have favoured liberalisation of industrial licensing and control of capital issues. We have proposed the setting up of a Board of Referees to advise the Government in the disposal of applications for the review of appellate orders passed by import control authorities. Measures for export promotion and better management of foreign exchange have also been indicated. Our studies have revealed that "P" Form, without fulfilling its objective, is proving an unnecessary irritant. We have, therefore, recommended its abolition.

4. We have recommended the setting up of a high-powered Commission on 'Prices, Cost and Tariff' to assist the Government in evolving rational price policies and in creating a climate of cost-consciousness. This Commission has also to take over the functions of the existing Tariff Commission which, of late, has lost much of its original purpose and usefulness.

5. We have made recommendations to make foreign collaboration serve the Indian interest more effectively. Foreign collaboration has helped the Indian economy, but has resulted in considerable drainage of our wealth, aggravating imbalance in our foreign exchange position. The available figures for the private sector for the seven years from 1956 to 1962 show that as against an inflow of funds at an annual rate of Rs. 4.6 crores, the repatriation outflow on the average was of the order of Rs. 11.6 crores. Thus, our country was drained of funds at an average of Rs. 7 crores a year.

6. We have considered in our report the working of Company Law Administration and made several suggestions to make it more prompt and effective.

7. The late Shri H. C. Mathur was in charge of the work in the Commission relating to Economic Administration. He took great pains to examine thoroughly the various problems covered in this report. His hard work, long experience and objective approach to problems were of immense help to the Commission. He worked in the true spirit of service to the very last day of his life. In his demise, the Commission has suffered an irreparable loss. The Commission places on record its gratitude to him.

Yours sincerely,

(Sd.) K. Hanumanthaiya.

Shrimati Indira Gandhi,  
Prime Minister of India,  
New Delhi-1.

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## CHAPTER I

### INTRODUCTORY

The achievement of political freedom in 1947 and the emergence of free India as a sovereign democratic republic in 1950 made the task of economic development more important than ever, in fact, urgent and inexorable. The Directive Principles of State Policy enshrined in the Constitution require of the State that it should promote the welfare of the people and raise their standards of living. These great national objectives cannot be realised without a strong economic base which can be built only through a well-planned national effort of rapid economic development. Planning in this context, includes not only the formulation and implementation of programmes for material production but also the steps—legislative, ethical and other—to be taken for creating the conditions in which economic activity can be channelled in desired directions at the required pace.

2. The State, in India, as the final authority for the approval of the Plan and the main executive agency for implementing it, has therefore, a vital role to play in the economic sphere. This role has a positive as well as a negative aspect. Positively, it either takes part directly in production activity in the public sector or seeks to promote development in the private sector. Negatively, it seeks to regulate economic activities in such a manner that they do achieve the desired objectives. We have dealt exhaustively with the administration of public sector undertakings in our report thereon. In this report, we address ourselves to the problems of economic administration considered mainly as a tool for the development and regulation of industry in the private sector though, of course, some of our recommendations will have an effect on the public sector as well.

3. Taking first the developmental activity of Government, while the responsibility for the execution of a particular programme should rest with the head of the organisation entrusted with it, it is necessary that the implementation of the Plan in all its aspects should be watched from a central point in the administration. This will help in bringing to light shortcomings in implementation and it will then be easier to apply, in time, corrective measures with a view to remedying defects. An adequate system of feed-back and flash-back will be necessary in order that the above "watch-dog" operation may be performed effectively and purposefully.

4. The fields of industry and commerce are of such a nature that the activities in one have a tangible effect on those in the other. It is, therefore, necessary to provide within the Government machinery a set-up which will ensure an effective co-ordination of policy making for those two areas. In formulating policy and ensuring its translation into concrete measures through the co-operation of those concerned, assistance will be needed of an efficient technical advisory organisation.

5. Measures for regulating economic activities are inescapable in a planned economy where the free market cannot be depended upon to bring about the canalisation of resources in socially beneficent directions or always subserve larger public interests. Controls are, therefore, unavoidable. However, controls have to be devised to serve a particular purpose and do not have to be imposed for their own sake. Too much of control—either through the regulation of a controlled activity down to its minutest detail or through the extension of control to too many activities and things—is apt to create fresh problems without satisfactorily solving those for which it is intended. Controls tend to put a strain on the administrative machinery, add to its cost, make for procedural delays and often open out possibilities for favouritism and corruption. Mankind loves freedom and immunity from interference and will put up with encroachment only under painful necessity when convinced of its need. Too much of it would thus promote resistance, put a premium on evasion and minimise, if not negative, chances of success. It should also be noted that while strict discipline is essential to the growth of a strong democracy, a rigorous regimentation will be detrimental, even fatal. A multiplicity of controls is also likely to impede investment and production and thus ultimately defeat its very objective. The number of direct controls should, therefore, be restricted to the minimum required and confined mainly to strategic areas and “growth points”.

6. Whether it be the field of development or of regulation it is essential that the policies of Government—both long-term as well as short-term—are declared in clear and precise terms. Lack of concreteness and clarity in the terms spelling out Government's policies create uncertainty in people's minds and lead to delay in determining what would be feasible in a given situation. Along with a clear enunciation of policy relating to development and regulation, Government should also provide guidelines for achieving the objectives of the developmental and regulatory measures. Wide publicity should be given to Government's statement of policy and the guidelines framed.

7. The steep rise in the price level in the last few years is a matter of grave concern, because apart from the adverse impact on the consumer, a continuous upward price movement throws into disarray programmes of planned development. The trend towards rising costs has to be arrested and reversed. This problem cannot be attacked piecemeal by individual Ministries. Administrative arrangements have to be made for facilitating an integrated approach to evolve a proper structure of inter-related prices, and to keep it under constant watch and within the means of the average consumer.

8. We have kept the above basic considerations in mind while examining the set-up concerned with development of the industrial sector; the study of prices and costs; import control; export promotion; the regulation of the terms of foreign collaboration; management of foreign exchange and control of capital issues. In addition to the above matters, we have examined the set-up for the administration of Company Law, because companies play a significant part in the country's industrial development and the measures taken to ensure their healthy functioning are a matter of considerable concern to Economic Administration.

9. In our examination of the problems relating to Economic Administration, we have derived considerable benefit from the reports of the Study Team on Economic Administration (Chairman : Shri C. H. Bhabha)\*, the Working Group on Developmental, Control and Regulatory Organisations (Chairman : Shri Manubhai Shah)† and the Working Group on Company Law Administration (Chairman : Shri D. L. Mazumdar)‡. We take this opportunity to express our thanks to the Chairmen, Members and Secretaries of the Study Team and the Working Groups. Shri Fakhruddin Ali Ahmed, Minister of Industrial Development and Company Affairs, Shri Asoka Mehta, Minister of Petroleum and Chemicals and Shri K. C. Pant, Minister of Revenue and Expenditure, have helped the Commission by giving their views in discussions with Shri H. C. Mathur, who, unfortunately, has been snatched away by Death in the midst of his labours. He had also discussions with Dr. D. R. Gadgil, Deputy Chairman of the Planning Commission, Shri R. Venkataraman, Member of the Planning Commission and senior officers of some of the economic Ministries. We are grateful to all of them for having helped us in this manner. As a Member of the Commission, Shri Mathur was in charge of the work relating to Economic Administration. His vast experience, hard work, and zeal for reforms were of immense help to the Commission.

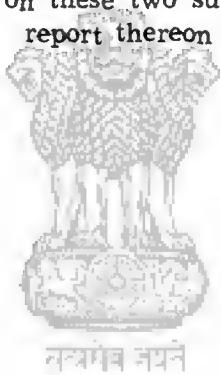
\*This Study Team will be referred to in the report as "Study Team".

†This Working Group will be referred to as "Working Group (D)".

‡This Working Group will be referred to as "Working Group (C)".

10. Our approach in this report has been to concentrate on administrative strategy within the broad frame provided by the substantive economic policies enunciated by Government from time to time and accepted by Parliament; the acceptance of the concept of a mixed economy and the needs of planned economic development. In other words, we have not gone into questions of policy except to a limited extent when we had to deal with situations in which a review of policy was necessitated by considerations of administrative strategy. Some of the policy issues which are important in themselves but on which we have refrained from making comments are referred to in the report by way of information or drawing the attention of Government to them.

11. We have decided to keep "Financing Institutions" and "Monetary Policy and the Reserve Bank of India" dealt with by the Study Team outside the purview of this report. Some further studies are being made on these two subjects and we intend to submit a supplementary report thereon at a later stage.



**CHAPTER II**  
**STRATEGY FOR ECONOMIC DEVELOPMENT**  
**Role of the Prime Minister**

12. Economic development involves mobilisation of national resources, human no less than material, and their direction into productive channels in accordance with a scheme of priorities. Planning has been by now commonly accepted as the main instrument for achieving economic progress. Consequently our strategy for economic development has to be centred on the Five-Year and Annual Plans. A careful and realistic formulation of each Plan and, what is more, its effective implementation are vital to national development. It was a realisation of this essential requirement of economic development and an appraisement of the most suitable location of executive action in implementation of the Plans that led us to observe in our Interim Report on the Machinery for Planning "... While the formulation of the Plan and the evaluation of Plan performance will be the responsibility of the Planning Commission, the actual implementation of the Plan is the responsibility of the various executive authorities. It is for them to take the necessary executive decisions from time to time ......." We had further commented in our final report on the machinery for Planning that Planning had suffered a good deal from the lack of attention to the details and phasing of the Plan schemes and projects : "It is, therefore, necessary that the Central Ministries and departments of the State Governments should work out in fuller detail the administrative and operational implications of each programme and scheme and ensure their proper phasing. The existing arrangement within the Government departments in regard to programme planning and management would have to be considerably improved". We also suggested that each Ministry at the Centre concerned with developmental programmes should have a separate Planning Cell. The Planning Cell should scrutinise and coordinate the detailed projects and schemes of the executive agencies under the Ministry and ensure that the requirements of inputs and administrative implications of each project and scheme have been fully worked out and the various projects properly phased.

13. Thus, after the Plan has been formulated the overall responsibility for its execution rests with the Ministries concerned which have

a full control over the operations relating to their part of the Plan. There is, however, no central point from which it can be ensured that all sectors of the economy move forward in unison according to the Plan, and action is taken to apply corrective measures where deviations from the Plan are noted, indicating suitable alterations in the Plan in the event of persistent deviations. The absence of such a focal point has resulted in a tendency to let things drift in an un-co-ordinated manner, a tendency which is fatal to planning. We have given considerable thought to this problem and have come to the conclusion that this basic deficiency must be remedied.

14. The decisions reached as a result of the scrutiny exercised from a central point will have to be implemented in a co-ordinated manner by a number of Ministries concerned with economic development. They should have the imprimatur of one who, while standing high in the hierarchy is not immediately concerned with the running of such a Ministry. The choice naturally falls on the Prime Minister.

15. The Prime Minister is now the Chairman of the Planning Commission, which is responsible for the formulation and the evaluation of Five-Year Plans. The responsibility for the implementation of the Plans is with the Cabinet of which the Prime Minister is the head. These positions and responsibilities make the Prime Minister the proper authority to look to the direction of the economic progress of the country in a balanced manner. No other Minister would be able to discharge this responsibility with the same authority and prestige as the Prime Minister. We, therefore, feel that the Prime Minister should assume and exercise this authority. However it would not be fair to impose on the Prime Minister who has to attend to numerous urgent and pressing problems besides those of economic development, the additional burden of carrying out routine watch tower operations relating to the economy and the administration. The Prime Minister should, therefore, be assisted by the Finance Minister who will keep her informed of events and developments within his jurisdiction. Other Ministers concerned will have to do likewise. The Planning Commission which is in charge of evaluation of Plan performance will furnish its assessment of progress. On the basis of the material so obtained the Prime Minister will have to take decisions and communicate them in the form of directives to all concerned.

#### **Recommendation 1**

**We, therefore, recommend that the Prime Minister should keep herself informed about the overall progress in the**

implementation of the Plan with a view to ensuring that all the sectors of the economy move forward in unison with the Plan and to issue necessary directives.

**Framing of operational equivalents to the Plan Proposals.**

16. In formulating the Annual Plan within the framework of the Five-Year Plan, notice is taken of the priorities to be attached to various schemes or groups of schemes. The Annual Plan programmes and the corresponding allocation of funds reflect the priorities. It is essential that priorities once established are faithfully adhered to if the Plan is to be implemented successfully. The only condition under which a change would be justified would be if the assumptions on which a particular priority was based have failed to materialise or there has been a change in the situation of such significance or dimension as to necessitate a modification. In all other circumstances the priorities once agreed to must be followed to their logical conclusion. For example, if, as at present increase of agricultural production has the topmost national priority, it must be clearly understood that we may have to concentrate our efforts more on the intensive development of areas with assured water-supply. This may ostensibly go counter to the policy of a balanced regional development. If balanced regional development has a low priority compared to the increased agricultural production, the former has to be sacrificed and there should be no room for doubt in this respect. This, however, does not give a blanket authority to the executive to do anything it wishes under the garb of furthering the cause of high priority items. It only implies a more concerted and systematic approach to the entire problem of economic development. With regard to the example under discussion in any meaningful scheme of action, the development of less favourable areas has to be next on the agenda. The administrative apparatus must begin making advance preparations for starting the next phase of the programme in these areas. The foundation for this programme has to be laid straightaway by laying down specific targets to scientific institutions for extensive research in the problems and potentialities of these areas. Similarly, if export promotion has a high national priority at the moment, its necessary logic should compel some industrial goods or even the agricultural commodities to be exported at the cost of the home market. There is no reason why the country should not tighten its belt if the high priority of export earnings makes it a painful necessity. Such austerity should, of course, be shared equitably by all sections of the community. We could also have a more stringent control of conspicuous consumption of imported luxury goods which are finding their way through normal as well as surreptitious route into our markets.

17. In order that all concerned, including the private sector, should have a clear idea of what is expected of them by way of implementing the Plan with due regard to priorities, Government should frame operational equivalents of the Plan proposals. The steps to be taken by the various developmental Ministries as well as the Ministry of Finance should be clearly described in a paper which should be widely circulated. This paper will in effect contain guidelines for development in high priority areas and can be taken as a policy-cum-operational statement for the short-term.

### **Recommendation 2**

We, therefore, recommend that as soon as the Plan is formulated and approved, each Ministry or Department concerned should frame operational equivalents of the Plan proposals. On this basis a general paper covering the entire field of Central and State Developmental activities should be prepared and circulated to all concerned. The paper should contain guidelines for development in high priority areas and should be in the form of a policy-cum-operational statement for the short-term.

### **Maximum use of industrial potential**

18. Structurally, there are two broad sectors of the economy : the industrial sector, and the agricultural sector. The importance of agricultural sector needs no elaboration as we can ignore agriculture only at our peril. A sustained growth in this sector is necessary for supporting industrial development by providing : (i) raw materials; (ii) surpluses for exports; and (iii) increased purchasing power of the rural masses which means expansion of the market for industrial products. We are witnessing a technological breakthrough in agriculture through the introduction of modern technology and better implements and inputs and notwithstanding certain handicaps and limitations, there is no reason why that breakthrough should not be fully exploited through all the means at our disposal.

19. As we will be dealing with the strategy covering the field of Agricultural Administration in a separate report, we confine ourselves here to the problems of industrial sector.

20. An important basic factor which needs special consideration at the present stage of our national economy is that over the last decade and a half we have built a broad enough base of heavy industry to support further industrialisation. The assembly line

of our Heavy Engineering Corporation can manufacture a one-million-ton steel plant in a year. In the metallurgical field, the capacity build-up of the national industrial base is adequate to sustain expansion in steel output of roughly two million ingots per annum. In heavy electricals, we have capacity of over four million K. W. Our machine tool industry is now well established. Our industrial production to-day is substantially diversified and is capable of fast growth. The advance of the diversified industry during the last decade has produced technical know-how of a high quality in several fields. Even so we cannot be complacent about the future or sit back with smug satisfaction over our achievement. In fact there are substantial gaps in our know-how and technology, and in such a vast country with an increasing population there is need for more and more addition to our capacity to operate in both these fields. The process of acquisition and build-up of the essential pre-requisites to the welfare of the country must be more comprehensive and must be accelerated.

21. However, there is an urgent need to find ways and means for utilising the existing potential and our strategy in the industrial sector should be directed to this end as well.

22. Our growing industrial sector has to rely on foreign sources for a number of raw materials, intermediates and spares and will continue to do so for some considerable time. It would not be possible to meet this need from our own foreign exchange earnings. This means our continued dependence on foreign assistance. But this should not be held to justify the present psychological atmosphere where solutions to most problems are sought extra-territorially. The need of the hour is to start looking inwards, and see what is available within the country and while realising the painful need of dependence on foreign assistance, to make a planned and determined effort to do away with the requirement of foreign assistance as expeditiously as possible. The target laid down by the Planning Commission of reducing the net inflow of foreign assistance to half in the next five years is rather modest. We would even suggest a bolder effort in this direction.

### Recommendation 3

We recommend that the broad strategy for industrial growth should aim at harnessing the high potential already created in the industrial sector and the technological know-how available and ending in the shortest possible time the present state of abject dependence on foreign aid.

### Development of the Public Sector

23. Public sector undertakings now account for a total investment of over three thousand crores of rupees. These undertakings have served as a powerful instrument for achieving social and economic objectives. They have helped to overcome some serious gaps in the economy either in the essential fields reserved for State enterprise or in the fields where private capital or enterprise cannot be attracted. The great potential to which we have referred above is due considerably to the heavy and purposive investment which has been made in the public sector. Without any risk of exaggeration, it can be asserted that the success of our economic development effort will depend substantially on the success of our public sector projects.

24. While the expansion of the public sector for further economic growth is inevitable, the existing organisational structure and the management of this sector are not commensurate with its requirements. We have gone into these matters in considerable detail in our report on the Public Sector Undertakings and need not repeat all that has been said therein. However, some of the recommendations made therein need to be re-emphasised as important elements in the overall strategy for economic development.

25. A noticeable feature with regard to the public enterprises is that even after two decades of their existence they are sought to be controlled by one or other of the Ministries. It may well be that in the past Government found it necessary to assume direct responsibility for the planning and execution of public sector projects. But with the growth of the public enterprises and the increasing number and variety of projects that have to be set up and managed, a Ministry type of organization is not well-suited to look after the development of public undertakings in the various sectors of the economy. As we have continued with this organisational pattern the problems of the public sector undertakings have had to be dealt with on a piecemeal, *ad hoc*, basis. In their anxiety to achieve results, the Ministries are tempted to, and often do, trespass into areas of day-to-day management for which they have neither the time nor technical competence. There is also a blurring of responsibility between the Government and the public sector enterprises.

26. There has also been a failure to store and analyse in a proper manner the experience gained in the setting up of industrial projects. This has been the main cause of our continued dependence on foreign consultants and the tardy progress in developing indigenous capacity for research, design and consultancy.

27. Our main recommendation for the management of public sector undertakings made in our report thereon, viz., the setting up of Sector Corporations, was aimed at remedying the defects mentioned above. These Corporations would help to set right the present diffusion of the industrial effort in the public sector and to take over the responsibility for further development in their individual sectors. While providing full operational autonomy to the managements at the operating level, they would insulate them from direct interference by the Government, thus ensuring to them a fair and real measure of autonomy.

28. It appears that this central recommendation of ours has not been considered by Government in the proper perspective. It seems to have been influenced by the conditions of the past and does not appear to have taken into account the needs of the future which are fast emerging. We had envisaged high-powered Sector Corporations, with a directing body comprising top persons in industrial management and technology who would be thoroughly conversant with their particular sectors. It is only such Corporations that can continuously focus attention on the crucial problems facing the industry, devise strategy for balanced growth of the sectors concerned, explore new markets and provide a dynamic leadership in the matter of planning, designing and technical know-how. The Sector Corporations would be the repositories of highest technical skill and would make an endeavour to develop, where wanting, the necessary experts in various fields of technology and management.

#### **Recommendation 4**

**नियमित संगठन**

We, therefore, reiterate our earlier recommendation that the organisational structure of public sector enterprises should be strengthened by creating technically competent and high-powered sectoral corporations.

#### **Industrial Licensing for the Private Sector**

29. The vast potential of the industrial sector and technical know-how can be pressed into the service of fast economic growth only if individual initiative at a large number of points in the national economy is encouraged, supported and nurtured. In this context, the importance of the private sector cannot be over-stressed. But initiative and entrepreneurial activity of this sector need broad guidelines if their efforts are not to be dissipated. The need for such guidelines is all the more urgent when we have limited inputs at our disposal. Whether it be in the public sector or in the private sector, the ultimate source of all resources is the gross

national product and the basic objective of all administrative activity must needs be to maximise its utilisation. The mechanism of market forces, undirected by a conscious or deliberate economic policy designed to influence the quantum, composition and direction of investments, can hardly lead to such maximisation, when a structural transformation of the economy is desired.

30. The regulation of the pattern of industrialisation in the country is, at present, sought to be achieved under the Industries (Development and Regulation) Act, 1951, and industrial licensing is the main instrument employed for this purpose.

31. Licensing as a tool for carrying out industrial policy has the following objectives :

- (a) Regulation of industrial development in accordance with the planned priorities and canalisation of investment into priority industries.
- (b) Avoidance of monopoly.
- (c) Prevention of locational concentration so as to encourage dispersal of industries to under-developed regions.
- (d) Prevention of undue competition between large scale industries and small and cottage industries.
- (e) Optimum utilisation of the scarce foreign exchange resources.

32. The Study Team on Economic Administration has examined in great detail whether this tool has led to the anticipated results. They have come to the following conclusions:

"Licensing under the Act might have been effective in serving the negative purpose of preventing the establishment of industrial capacity not provided for in the Plan and of slowing down of the setting up of the capacity for industries considered to be of lower priority but it has hardly been effective in securing an adequate volume of investment in priority industry. There has been more emphasis on regulation and none on development. The time lag between the grant of industrial licence and the actual establishment of industry has been so much that any precise matching of requirements as provided for in the Plan and of the capacity licensed under the Act has not been feasible. Moreover, industrial units with fixed

assets of less than Rs. 25 lakhs have been exempted from the licensing provisions of the Act. The establishment of lower priority capacity in small and medium sectors consequently cannot be controlled under the Act. The licensing provisions under the Act can, therefore, serve the purpose of regulating the development according to the Plan priorities to a very imperfect degree."

33. Quoting the Monopolies Inquiry Commission the Study Team has expressed the view that the system of control in the shape of industrial licensing has restricted the freedom of entry and thereby helped concentration of economic power. We, however, do not fully agree with this view. Industrial licensing, in our view, can only help regulate the direction of investment, secure the industrial priorities and targets of production and bring round an orderly growth of the industries within the frame-work of the overall policies as set out in the Industrial Policy Resolution. The prevention of concentration of economic power and other socio-economic objectives could be achieved more effectively through economic and fiscal policies of the Government and not through the licensing mechanism.

34. We agree with the Study Team that the objective of regional dispersal could be more adequately served by providing positive inducement and creating the industrial infra-structure in the under-developed regions. Economic considerations like the proximity to sources of raw materials, availability of cheap power, etc., do determine the location of industry. But given some minimum conditions for establishing an industry in a region, it could be made attractive by providing inputs like credit, raw materials, etc., on a preferential basis. In the matter of protection to small scale sector the utility of licensing procedures can only be of limited value. This important objective has also to be positively pursued through appropriate Government policies.

35. Considering all these aspects, we believe, that industrial licensing mechanism even though not a perfect instrument in the strategy of industrial development had a purpose to fulfil when it was initiated and it was useful to some extent in the subsequent years. The system of licensing itself has undergone quite a few changes according to the needs of the changing economic situation. We feel that we have now reached a stage of industrial development when the entire licensing strategy has to be refashioned.

36. We are in favour of a strategy of 'free areas' for industrial activity so long as no claims are made for foreign exchange or

support from public financial institutions. The basic objective should be that industrial licensing should be confined only to those fields where foreign exchange and institutional finance are required in a large measure. At present, the control-ridden atmosphere has made the industrialist in the private sector a passive individual dependent on public institutions for almost everything. This attitude of dependence on State assistance, though somewhat traditional in a country ruled for centuries by authoritarian regimes, is inimical to progress and this ought to change in the interests of the country's welfare and progress. If an individual can raise resources on his own in these free areas, as in fact happened during the earlier phase of our industrial development, no regulations should be allowed to come in his way. This will remove the deadening effect on entrepreneurial activity and bring about a great spurt in indigenous manufacture and import substitution. It will also be a very powerful stimulus for tapping the unused resources of credit and available technical know-how.

37. Licensing policy should be reformulated having in view this new approach to industrial development in the private sector. The whole of the industrial field could be divided into three categories. The first category will comprise industries of a very high priority. These could be carefully selected and should be small in number. These industries would require heavy capital investment and/or considerable foreign exchange. They should be subject to licensing. But the concept of licensing here has to depart from its traditional connotation. There should be a thorough examination at the time of licensing, and the Licensing Committee should before granting the licence, ensure that all the needed internal and external inputs are ear-marked for the licenced enterprise. The licensing thus should be the first and the last point in the process of official scrutiny.

38. The second category would comprise those industries which require foreign exchange and/or assistance in the matter of other inputs but are not included in the first category. They should be graded according to a schedule of priorities for the purpose of foreign exchange and other inputs. There should be no licensing for this category. However, if foreign exchange is required the entrepreneur should take his turn before the Capital Goods Licensing Committee which will allocate foreign exchange according to the priority fixed. In case of credit requirements, the allocation will depend on the priority accorded.

39. The third category will consist of those industries for which no foreign exchange is required and which are not entitled

to any priority consideration for purposes of other inputs. This sector should require no licensing. However, all inputs will have to be provided by the entrepreneur himself.

40. We are glad to note that the Planning Commission in their "Approach to the Fourth Plan" have suggested a liberalisation of industrial licensing policy on lines similar to what we are now recommending. The Planning Commission's proposals are, we understand, under the consideration of Government.

#### **Recommendation 5**

**We recommend that all industries should be divided into three categories:**

- (a) A high priority category comprising a small number of industries which would involve a large capital investment and/or a considerable amount of foreign exchange. The industries in this category should be licensed. The license should be given only after the earmarking of inputs has been completed.
- (b) Industries which require foreign exchange and/or assistance in the matter of other inputs and are not included in the category (a): They should be graded according to a scheme of priorities. While they will not require to be licensed, allocation of foreign exchange and other inputs will be in accordance with the schedule of priorities.
- (c) All other industries which do not require foreign exchange and which are not entitled to any priority consideration in the matter of allocation of other inputs: These industries will not require to be licensed.

### CHAPTER III

## THE ROLE OF GOVERNMENT IN INDUSTRIAL DEVELOPMENT

### (i) A Single Ministry of Commerce and Industry

41. Notwithstanding the obvious primacy of securing co-ordination between commercial and industrial policies and their almost day-to-day implementation Government's policy in regard to the combination of the subjects of Commerce and Industry into one Ministry has had a chequered history in which experiments and considerations other than administrative appear to have played more than their due part. In the early stages of industrial development (1920-21) and during most of the period of the First and Second Five-Year Plans a single Ministry of Commerce and Industry was looking after all aspects of these two subjects. New Ministries and organisations then came into being as the pace of industrialisation increased. At the higher policy formulation level, there was sharing of responsibility with the Planning Commission and the Department of Economic Affairs. A separate Ministry of Heavy Industries was constituted in September, 1956. However, soon thereafter, an integrated Commerce and Industry Ministry was constituted in April, 1957. The subject of Heavy Industries was again taken away from the combined Ministry of Commerce and Industry in April, 1962 and the Ministry itself was bifurcated in July, 1963. Certain chemical industries were transferred to the Ministry of Petroleum and Chemicals in November, 1963. Heavy industries returned to the Ministry of Industry when it was reconstituted as the Ministry of Industry and Supply in June, 1964. But the new Ministry of Commerce took into its fold in June, 1964, a group of industries, namely, textiles, jute and plantations on the ground that these industries were export-oriented, and for some time to come the Ministry of Commerce was going to be pre-occupied mainly with export promotion.

42. Although our agricultural sector and traditional industries continue to account for our major exports, with the changing landscape of our industrial development the modern industrial sector should progressively contribute more towards our export earnings. For example, iron ore and steel are already looking up and we have to put in more effort towards maximising export earnings from the new industrial commodities. In fact, having regard to our need of foreign exchange largely for industrialisation, the entire industrial sector now has to be export-oriented. The placement of only some industries under the Ministry of Commerce because of their being

export-oriented, therefore, loses its force and besides, gives the false appearance that only those industries need export-orientation.

43. The question of export promotion apart, commerce has a vital role to play in the whole process of industrial growth itself. Commercial policies impinge at various points on the production process commencing from the stage of acquisition of raw-materials and ending with the emergence of the finished product. There will have to be well designed commercial policies to ensure that raw-materials flow uninterruptedly into the industrial sector; that intermediates, which are the end products of certain industries and the raw materials for others, are made available on reasonable terms; and that the finished goods coming out of our assembly lines find a market. Similarly, policies in the field of international trade considerably influence industrial production and growth. Administrative regulation and control of exports and imports are closely linked with the question of development of indigenous technical know-how and other aspects of industrial development.

44. For promoting rapid industrial growth it is, therefore, necessary that all policies having a bearing on industrial development are suitably integrated and harmonised and that there are no unnecessary curbs on its pace. This would mean that, on the one hand, there are minimum control points in the economy, and on the other hand, working of all control points is properly co-ordinated. The amount of energy that is being spent in the co-ordination of different facets of development of industries, foreign collaboration, processing of industrial licensing, scrutinising, and sponsoring import licences involving numerous references and cross-references between different organisations is enormous and from the national angle, an avoidable waste for a large part. There is a widespread feeling that the entrepreneur has to run from pillar to post and that decision making at the higher levels is a long drawn out affair, as it involves a number of authorities, who often do not think alike or are oblivious to the implications of the measures and policies emanating elsewhere.

45. Recognising the necessity for a multi-point attention in view of the complexity of industrial field, the Study Team has proposed that "the Ministry of Industry which is in overall charge of industrial development of the country should have a more decisive role so that it could offer an effective leadership and initiative in matters of general importance in the industrial field." Without inhibiting the initiative and curtailing the autonomy of other Ministries, this Ministry should act as a focal point in the overall aspects of industrial development. It should help evolve common policies on allocation of resources,

capital goods licences, foreign collaboration, industrial planning, and regional dispersal of industry, and provide guidelines on credit policies, regulation of prices and questions concerning tariff protection, etc. The Study Team, however, did not go into the questions of combining together the subjects of Commerce and Industry in a single Ministry.

46. The Study Team on the "Machinery of Government of India and its Procedures of Work" in its interim report went in some detail into the problems of co-ordination in the industrial sector and observed: "We are impressed by the advantages that could flow out of bringing the agency handling commerce and the nodal department of Industrial Development as close together as possible ....."—the bringing together of all nodal functions in the field of Commerce and Industry would place the resultant Ministry in a powerful position from which purposeful influences could go out to secure both higher exports and co-ordinated industrial development." However, that Team felt that this could be adopted only as the ideal to work towards, over a period of time, because it has a logic which could be expected to endure in the long run. According to the Team, the first stage should be to allow the Department of Industrial Development to establish itself as a nodal point of authority in the field of industrial co-ordination and policy making. Combining the two functions of Commerce and Industry may affect adversely this process. The attention of the Minister may be diverted from export promotion if he has also to worry about the complex problems of industrial development. Therefore, the Team was of the view that for the time being Commerce and Industry should be dealt with in separate Ministries.

47. There is some force in the latter argument put forward by the Team. We, however, feel that the logic of the basic approach suggested by it is too strong to be ignored. The development of commerce and the growth of industry are so intimately connected that their segregation into two different Ministries, supplemented even with the best possible arrangements for co-ordination, would make it difficult to formulate integrated industrial and commercial policies. What is, therefore, required is a combined Ministry of Commerce and Industry. This combined Ministry should be responsible for policy formulation, overseeing generally how it is executed and the overall direction of development of industry and promotion of trade. It should not have a direct responsibility for the running of any public sector industrial undertakings. The administrative control over such undertakings which now rest with the Department of Industrial Development should be transferred to other appropriate

Ministries. Recommendations in this regard will be made in our report on the Machinery of Government of India and its Procedures of Work.

### Recommendation 6

We, therefore, recommend that the subjects of Commerce and Industry should be combined into a single Ministry of Commerce and Industry. This Ministry should be responsible for formulating broad policies and strategy for industrial and commercial development in the public as well as the private sectors. It should, however, not be in administrative control of any public sector industrial undertakings.

#### (ii) Technical Advisory Agency

##### (a) The Directorate General of Technical Development

48. If the Ministry of Commerce and Industry is to play its key role in an affective manner, it should be supported by a high level, competent technical advisory agency. The Directorate General of Technical Development (DGTD) to-day functions as a central technical advisory agency for industries though some industries like iron and steel, textiles, tea, sugar, vanaspati have remained outside its fold. The Working Group (D) studied in detail the organisation and functions of this agency as well as four regulatory organisations, viz., those of the Coal Controller, the Iron and Steel Controller, the Textile Commissioner and the Jute Commissioner, and has made proposals for reorganising them.

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49. The Group has gone into the question whether the technical advice to the various Ministries dealing with industries should emanate from a central agency, or whether each Ministry entrusted with the development of a specific sector of industry should have its own technical advisers. It has also gone into the suggestion whether the developmental and regulatory functions of the DGTD need to be separated. It has come to the conclusion that the time is not yet ripe for bifurcating the regulatory and developmental functions of this organisation and that the technological problems of industry are too closely inter-linked to admit of handling in water-tight compartments. The Group does not favour the establishment of technical cells in sectoral Ministries.

50. We find it difficult to accept in toto the suggestion of the Group. Even if there were a central agency, there should be need for some arrangements for technical assistance for dealing with the day-to-day technical problems arising in the various Ministries which

have to deal with sizeable areas of industrial development of one or more major industries. The Ministries cannot obviously be required to approach the central agency for every matter simply because it has some technical content. A Ministry dealing with subjects throwing up technical problems should be in a position to understand intelligently those problems, put questions thereon and resolve difficulties. For this purpose, officers at policy formulation levels should be drawn from the appropriate "field". We have recommended in our report on Public Sector Undertakings the creation of small technical cells for performing some specific functions in the Ministries dealing with public enterprises, e.g., scrutiny and evaluation of feasibility reports, detailed project reports, etc. Where a Ministry deals with public sector enterprises as well as with the development in private sector, it can make use of such technical cells for both the areas of enterprise. It may also be necessary in some cases to have such technical cells for looking after the work connected with the development only in the private sector. These cells, of course, will be required only in Ministries with certain functions of a very highly specialised nature calling for continuous advice and attention from experts.

51. As regards the issue of bringing under DGTD's advisory jurisdiction certain industries which are now outside it, we agree that technical matters relating to sugar and vanaspati may be dealt with by the DGTD. For coal, textiles and iron and steel, we suggest special arrangements later in this chapter.

52. The work of the DGTD should be divided among a number of directorates, each directorate being responsible for advisory service to a group of related industries. Above the level of Directors, there should be three or four Deputy Directors-General, each of them having under him a few Directors dealing with broadly related subjects. The Working Group (D) has suggested that the DGTD should be redesignated as Director-General of Industrial Development. We do not agree with this suggestion because the latter designation has a much wider connotation than the role we envisage for it. Industrial Development involves not only technical processes, but also economic and commercial operations. The latter are not intended to be handled by the DGTD.

#### Recommendation 7

We, therefore, recommend that:

- (1) The work of DGTD should be divided among a number of Directorates, each Directorate being responsible for advisory service to a group of related industries. Above the level

of Directors, there should be three or four Deputy Directors-General, each of them having under him a few Directors dealing with broadly related subjects.

- (2) In Ministries which have to deal with sizeable areas of industrial development or one or more major industries, there should be a complement of technical officers at senior levels drawn from the field, i.e., from the public sector enterprises and other organisations throwing up technical talent.
- (3) The advisory service provided by the DGTD should also extend to sugar and vanaspati.

**(b) Personnel of DGTD.**

53. The numerous tasks performed by technical officers fall into two categories. Their most important function consists of formulating development plans, laying down priorities for industrial production and assisting in the formulation of Government policies on basic issues, such as, capital goods, foreign collaboration, inter-industrial relationships, regional dispersal, etc. This type of industrial planning requires technical personnel having a wide and extensive experience in the industrial field. On the other hand, the organisation of the DGTD has also to undertake considerable amount of work in the implementation of Government policies. It deals with a variety of applications from the industrial units. It also processes numerous returns relating to production. Collection and meaningful processing of this data does need technical officers. Even though this work is essentially of a repetitive and routine nature, it has got to be performed. We must have technical personnel for doing it.

54. For performing the first category of tasks enumerated above, namely, the formulation of the development plans and the devising of strategies for achieving them, the Working Group (D) has proposed the constitution of a cadre of highly competent technologists styled as "Industrial Development Service." The Group, however, has been careful to distinguish the concept of the proposed service from its traditional connotation. According to it, the Service "would be more in the nature of a pool." The Group has also taken into account the observations made by the Study Team on Personnel Administration on the subject. It has generally agreed with the latter's views and stated that "the traditional concept of the service is quite inappropriate in the context of a technical advice agency." The Group has, therefore, suggested that every vacancy in higher grades should be advertised and the officers already in service should compete with

outsiders. We agree with this suggestion. The Group has further suggested that for one-third to one-half of these vacancies, the personnel already working in Industrial Service could be given a preference, other things being equal. We are not in favour of reservation of any percentage of vacancies for those who are already working in the Directorate-General of Technical Development. They should be free to compete with others and other things being equal, the previous experience in the Directorate naturally will be regarded as an additional qualification.

55. There should be a constant interchange at all levels between the Directorate and the 'field' comprising public or private sector enterprises. For this purpose, it may be necessary to provide for appointment to the higher posts being made on a 'contract' basis for fixed periods. There will, however, be some officers who will stay with the Government for longer periods. It is essential to see that none of them is kept desk-bound for too long and that there is a conscious effort to maintain their technical competence at a high enough level and avoid the dangers of obsolescence. For this purpose, there should be a provision for periodical deputation to field organisations of officers who are in permanent employment of Government or who work under Government for a considerably long period.

56. In view of the fact that competent technicians are not easy to obtain and that the Government has to compete with the private sector for recruiting top class technicians, the Working Group (D) has recommended that the salary offered by the Government to the officers of the DGTD should be higher than the present day scales. Though we appreciate the point made by the Group, we would not like to suggest any special scales of pay. These will have to be fixed by the Government, keeping in view the overall personnel policy and the national incomes and salary structures.

#### **Recommendation : 8**

**We, therefore, recommend that :**

- (1) The higher technical posts in the organisation of the DGTD should appropriately be graded with suitable emoluments for each grade.**
- (2) Provision should be made for the appointment to higher technical posts "on contract" for specified periods.**
- (3) Officers who work under Government for a long period should periodically be deputed to field organisations so that**

their outlook may be realistic and their knowledge up-to-date.

### (c) Modernisation

57. Though industry in India has made big strides during the last 20 years, some of the well-established industries are in an unsatisfactory condition owing to lack of timely replacement of equipment and disregard for modernisation. As observed by the Working Group (D): "Modernisation could vastly improve the profit-bearing capacity of these industrial units in the long run, but due to lack of proper realisation of its importance some shortsighted managements preferred to fritter away the accumulated reserves or chose to invest them in industries promising quicker returns. This has saddled the country with comparatively inefficient industries and has led to a high cost economy. This tendency has also resulted in investment flowing to those industries which were socially adjudged as of lower priority but yielded higher profits to the individual entrepreneurs. The concept of modernisation has now to be built into the industrial development strategy of this country."

58. It is imperative that the DGTD should devote itself to the requirements of modernisation and rehabilitation of industry. For this, it will have to undertake continuous studies and keep a close watch on the several aspects of maintenance, modernisation and rehabilitation in consultation with the Development councils so that phased programmes of rehabilitation of different sectors of industry may be evolved. When Industrial units reach a stage beyond which rehabilitation of out-moded machinery would be a sheer waste of resources, the DGTD in consultation with the Development Councils, could recommend scrapping of uneconomic and obsolescent units. We, however, do not favour the Group's proposal for creating a special cell in the DGTD for promoting modernisation. The problems of development and modernisation cannot be compartmentalised. The structure of the DGTD which we have suggested should be adequate enough to provide a sound base for this activity. The officers in charge of Directorates, DDGs and DG should have the problem of modernisation under constant study. It should form an important part of their normal functions.

### Recommendation : 9

We, therefore, recommend that the Director-General, Technical Development, should be specifically charged with the responsibility for promoting modernisation.

#### **(d) Relationship of DGTD with other Ministries**

59. The effectiveness of technical advice on the decision-making process of the Government will depend on the right relationship between this advisory agency and the various Ministries of the Government dealing with industries. A clear and precise definition of this relationship is necessary in order to remove misgivings in those administrative Ministries which are entrusted with specific industries but have to seek technical guidance from a centralised organisation located in the Ministry of Commerce and Industry. The placement of the DGTD in the Ministry of Commerce and Industry does not at all imply that the Secretaries of other Ministries have necessarily to obtain the technical advice from the relevant Directorate through the Secretary of the Ministry of Commerce and Industry. They can seek this advice direct as if the concerned Directorates were located within their Ministries. The DGTD will function as a staff agency to the entire Government, notwithstanding its placement in the Ministry of Commerce and Industry.

#### **Recommendation : 10**

**We recommend that the DGTD, though placed in the Ministry of Commerce and Industry should be viewed as a common service agency to the entire Government of India. Ministries dealing with individual or sectoral industries or public sector undertakings should be able to draw upon this service directly.**

#### **(iii) Development Boards**

##### **(a) General**

60. The Working Group (D) has considered what the proper set-up should be for development-cum-regulatory bodies dealing with large industries and has made concrete proposals in respect of coal, iron and steel, and textile industries.

61. Organisations like those of the Coal Controller and the Iron and Steel Controller came into existence in the context of war time shortages when apportionment of these critical commodities became necessary. However, they have over the years acquired a number of promotional and developmental functions, which today overshadow their earlier regulatory role. Indian industry has now entered upon a new phase of greater mechanisation and the application of advanced technology. In this context, the nature of the service needed from

the Government has materially changed and the organisation which deals with the development and regulation of ~~the~~ ~~other~~ ~~industries~~ will have to combine within itself the technical competence of the DGTD and the requisite administrative acumen for implementing from time to time the complex Government regulations. The most significant change suggested by the Group with regard to the set up at the highest administrative level is the creation of multi-member Development Boards, manned by highly competent technical personnel and assisted by economists and management experts. The functions of these Boards will be:

- (a) planning of production and setting up of production targets;
- (b) furnishing the necessary technical advice to the Government;
- (c) providing technical consultancy service to public sector undertakings, autonomous and statutory organisations like the Tariff Commission and the IFC and also the industrial units in the private sector;
- (d) ensuring the provision of necessary scarce inputs to the industry, e.g., supply of raw materials, allocation of foreign exchange; and
- (e) collection, maintenance and publication of industrial statistics.

We agree that for certain industries which have assumed large dimensions and require special care in the matter of development and regulation, the constitution of Development Boards of the type suggested by the Group will be a desirable step. We also agree that the new arrangements should dovetail the executive agencies with policy formulation process, cutting out the lower levels of Secretariat processing altogether. The Chairmen of these Boards should have adequate administrative and financial powers and should be able to deal directly both with the Secretary and the Minister concerned. Strategic or long-term policy making should remain with the Secretariat. But tactical or operational policy-making and the overall responsibility for execution should rest with the Boards.

62. When a Development Board is established for an industry or group of industries, the DGTD ~~would have~~ but limited functions to discharge with regard to those ~~industries~~. There will, therefore,

be no need of a full-fledged Directorate in the DGTD for dealing with them. It would be sufficient if there is a skelton specialist staff who could be consulted when questions of overall industrial policy are considered.

63. The nature and composition of the proposed Development Boards must be necessarily determined by the type of functions they will be expected to perform. Primarily, these Boards must satisfy two requirements: (a) they should have within themselves the technical competence of a high order so that they can perform satisfactorily the functions with which the DGTD is entrusted in respect of other industries; and (b) they should be compact and well integrated bodies which can perform the necessary executive functions and implement the Government policy efficiently. For some time to come these organisations will also have to handle a certain amount of non-technical work like the enforcement of price control, distribution control, arrangement for imports, etc. Persons drawn from general administration with a flair for or having specialised knowledge of, or experience in economic or financial matters will, therefore, be useful. The Boards should, of course, be provided with an adequate staff of specialists like cost accountants, management experts, and financial experts.

64. The Boards will be purely Government organisations discharging, *inter alia*, certain regulatory functions. They will, in fact, be a part of the Ministry concerned. There will, therefore, be no place for non-official members of the Board.

#### **Recommendation 11**

We, therefore, recommend that :

- (1) It should be desirable to constitute Development Boards for industries which may assume large dimensions and require special care in the matter of development and regulation.
- (2) The functions of the Boards will be—
  - (a) planning of production and setting up of production targets;
  - (b) furnishing the necessary technical advice to Government;
  - (c) providing technical consultancy service to public sector undertakings, other autonomous organisations, and the private sector;

- (d) ensuring the provision of necessary scarce inputs to industry; and
- (e) collection, maintenance and publication of industrial statistics.

(3) The heads of these Boards should be able to deal directly with the Secretary and the Minister concerned, their offices functioning also as the offices of the Ministry.

(4) The Development Boards should be compact, well-integrated bodies and should be composed largely of technical and specialist personnel of high competence.

(5) Persons with economic and management expertise may be appointed as members of a Board if the nature and the needs of the industry concerned justify such an appointment. One of the members could be an administrator with a flair for or having specialised knowledge of, or experience in the economic and financial fields.

65. We now proceed to the application of the concept of Development Boards to the Coal, Iron and Steel, and Textile industries. Government may consider if the time is ripe for constituting Development Boards for other industries.

#### **(b) A Coal Development Board**

66. Coal is mainly a mining industry and the nature of the Government's responsibilities to it are not on a par with its responsibilities to other industries. The Coal Board and the Coal Controller exercise different functions with regard to the units in the coal industry. The Coal Board constituted under the Coal Mines (Conservation and Safety) Act, 1952, is entrusted with the several aspects of conservation and safety of mines, research, financial assistance to mines, etc. The Coal Controller is mainly charged with regulatory functions derived from the Colliery Control Order. He is also required to provide the technical data and advice for the formulation of coal policies. He acts as the technical adviser to the Government and assists in the formulation of policies in respect of this industry.

67. The question whether there should be such a division of functions between the Coal Controller and the Coal Board has been a subject of controversy for more than two decades. In 1946, the Indian Coal Fields Committee suggested the establishment of a

single Coal Commission which would have developmental and regulatory functions of the industry and also the actual administration of Government-owned mines. The Estimates Committee supported this suggestion in 1954-55. There have since been two important developments, namely, (i) the establishment of the National Coal Development Corporation for management of Government-owned mines, and (ii) the recent removal of control on prices and distribution of coal. The Working Group (D) has examined the question in detail and come to the conclusion that the present organisation of Coal Controller could be merged with the Coal Board. The reconstituted Board should have the structure of a Development Board as envisaged by us above. We agree with this conclusion.

68. The Group has suggested that the Coal Board besides having some full-time and part-time official members should have also part-time non-official members like representatives of the private sector collieries and representatives of principal consumers. We have already expressed our view that there should be no non-official members in the Development Boards. It is all the same essential that non-official interests should be associated with formulation of policies concerning the promotional and safety aspects of the coal industry. We, therefore, would favour a purely official Coal Board with an advisory body attached to it which should be consulted on all matters other than those which are of a regulatory character. Subject to this modification, we are in general agreement with the proposals of the Group.

### Recommendation 12

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We, therefore, recommend that :

- (1) The Coal Board should be reconstituted into a Development Board of the type we have described.
- (2) It should *inter alia* be entrusted with functions relating to expansion and modernisation of mines, procurement of machinery, distribution of coal, co-ordination of research, import substitution and export promotion.
- (3) The regulatory functions now being exercised by the Coal Controller should be transferred to the Board.
- (4) The Board should have a high-powered full-time Chairman, having the requisite knowledge and experience in the technical field of mining and geology. There should be four other members, namely, Member (Technical), Member (Finance and Administration), Member (Commercial) and the Chief Mining Engineer.

(5) The Coal Board, when dealing with matters other than regulatory, should co-opt an advisory body consisting of—(a) the Director General of Mines Safety; (b) a senior officer of the transportation wing of the Railways; (c) a representative of public sector collieries; (d) one representative of the private sector collieries, and (e) two representatives of the principal consumers.

69. The Group has given special attention to the safety aspect of coal industry. Under the provisions of the Mines Act, 1952, and the Coal Mines Regulations, 1957, the Chief Inspector of Mines enforces the safety rules in all mines including coal mines. The Group feels that the considerations of safety and those of conservation are so inextricably inter-related that by far the best arrangement would be for the Coal Board to assume direct responsibility for both. We do not subscribe to this view. The enforcement of safety regulations has necessarily to be outside the purview of an organisation which is exclusively of a regulatory or executive character. The Chief Inspector of Mines could, however, also be associated with the Board when questions of safety are taken up. We do not think that more than this would be necessary or even desirable.

### Recommendation 13

We, therefore, recommend that the Chief Inspector of Mines should continue to be responsible for the enforcement of mines safety regulation.

#### (c) A Directorate of Iron and Steel

70. The Iron and Steel Controller is the technical adviser to Government and is responsible for the development of iron and steel industry. He handles the work relating to the planning of production and distribution of indigenous steel and issue of licences for import of steel. The Working Group (D) after examining the role and working of this organisation concluded that there was little advantage in the Iron and Steel Controller issuing import licences to the DGTD borne units. In fact, the Group anticipates several advantages if this function is given back to the Chief Controller of Imports and Exports on whose behalf the Iron and Steel Controller is at present functioning. We are in agreement with this view.

71. The remaining functions of the Iron and Steel Controller like the scrutiny of licensing applications and tendering of technical advice to Government are analogous to the functions of the DGTD *vis-a-vis* other industries. The Group, therefore, recommends that

these functions should be performed by a full-fledged Directorate of Iron and Steel in the DGTD and that the present organisation of the Iron and Steel Controller should be wound up. In making this suggestion, the Group has stated that a multi-member board is not necessary for iron and steel industry.

72. While we agree with the analysis of the Group, we do not think that the proposed Directorate should be located in the DGTD. This industry in view of its magnitude, deserves to be served by a separate agency, directly located in the Ministry concerned. Further, although the abandonment of prices and distribution control on steel is a step in the right direction, we do not think that the administrative functions in respect of this industry will become negligible in the near future. It should, therefore, be appropriate for the Directorate to be in the Ministry itself.

#### Recommendation 14

We, therefore, recommend that the licensing function of the Iron and Steel Controller in respect of import of steel should be transferred to the Chief Controller of Imports and Exports. The remaining functions of the Iron and Steel Controller should be transferred to a Directorate of Iron and Steel in the Ministry of Iron and Steel.

73. The Government have set up an Iron and Steel Advisory Council to advise on all matters of general character relating to the iron and steel and in particular on the problems pertaining to production, distribution, transport, research, imports and exports. A Standing Committee of this Advisory Council was constituted early in July, 1967. The Working Group (D) has considered the role of this Advisory Council. It feels that there is no reason why the pattern of Development Councils as prevalent in other industries should not be adopted for the iron and steel industry also. The Group has, therefore, suggested the abolition of the Advisory Council and its Standing Committee and the constitution of a Development Council on Iron and Steel. We agree with this suggestion.

#### Recommendation 15

We recommend that a Development Council for Iron and Steel under the Industries Development and Regulation Act should be constituted in place of the present Advisory Council in the area.

#### **(d) A Textile Development Board**

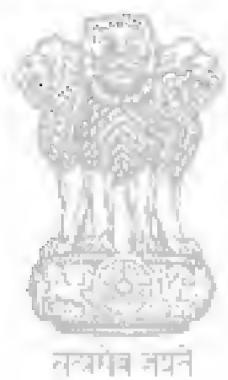
74. The textile industry is another area which needs a co-ordinated approach of the type which we have been considering. At present, there is a Textile Commissioner who performs a wide range of functions both regulatory and developmental. The regulatory functions include control over distribution and prices of raw materials, licensing of new or additional capacity and control on the pattern of production, distribution and price of the finished products and the purchase and sale of textile machinery. The developmental work of the organisation mostly relates to planning of production programmes, assisting the industry in securing adequate supplies of raw materials and other inputs, provision of technical guidance and advice and formulation and administration of appropriate export schemes. Besides the Textile Commissioner, there is a Jute Commissioner at Calcutta for looking after the jute industry. The Jute Commissioner's organisation is comparatively small and also has regulatory as well as developmental functions. This industry which is our largest foreign exchange earner equally needs concerted attention. The import of raw wool and its distribution constitutes another major task. Synthetic fibres will occupy an important place in the textile industries in the near future. After examining the roles of the existing organisations, the Working Group (D) has suggested that a Development Board should be constituted for all the industries mentioned above. The experience, data and the personnel built up in the office of the Textile Commissioner and Jute Commissioner should be used as the base for creating the new organisation. The Board should have five members—one member each for the four major textile groups, namely, cotton textile, jute, man-made fibres and wool, and the fifth member for financial administration. In day-to-day operations, each member of the Board should be primarily responsible for the industry in his charge. The Board as a whole should act only when the problems of co-ordination need attention, necessitating a comprehensive view of the entire industry. In the set-up proposed, there will be no difficulty if the Member-in-charge of jute has headquarters at Calcutta. We are in general agreement with the above views of the Group.

#### **Recommendation 16**

**We, therefore, recommend that:**

- (1) A Development Board of the type we have described should be constituted for Textiles.**

- (2) The Board should have five full-time members designated as Member, Cotton Textile; Member, Jute; Member, Man-made Fibres; Member, Wool; and Member, Financial Administration.
- (3) The office of the Member-in-charge, Jute Industry, should be located in Calcutta and should assume all functions which are at present performed by the Jute Commissioner.
- (4) The offices of the Textile Commissioner and Jute Commissioner will be merged into the organisation of the Board.



## CHAPTER IV

### COMMISSION ON "PRICES, COST AND TARIFF"

75. A disturbing feature of the current economic situation, which has an adverse effect on the pace of economic growth, is price instability. The wide-spread system of import control provides an effective protection to the indigenous supplier from foreign competition and often has the effect of providing a *status quo* mentality in the matter of quality. At the same time, in the internal market, production and prices are not regulated by the free and effective operation of market forces which could result in the correlation of demand and supply at a fair price level. Protection from the competition of foreign suppliers and the absence of effective market forces which could have imposed a healthy discipline on the indigenous supplier, have placed at his disposal the advantage of a sellers market. There is, therefore, no compelling urge to achieve efficiency in production through reduction in cost. This in its turn leads to a wastage of national resources as well as the imposition on the consumer the avoidable burden of very high prices. This is unfortunate because the planned economic growth at a fast enough rate depends on the existence of a climate of price discipline and price stabilisation based on an expanding market and of the economic utilisation of resources leading to reduced costs. The tendency of prices to rise on the ground of increasing costs—which is an unhealthy sign of the national economy—has, therefore, to be held in check through proper regulation.

76. Such regulation may, however, worsen the situation instead of bettering it, if it disregards its full economic implications in fields other than the one in which it is made to operate. Therefore, the tendency on the part of Ministries, in recent years, to resort to *ad hoc* committees for price determination is to be deplored. Further, direct physical control is not desirable except in the case of commodities which are basic to human needs and which are in acute short supply. For the rest, price discipline has to be achieved through sophisticated methods involving continuous watch-dog operations, and cost-studies by a central body leading to the creation of a healthy economic atmosphere in which efficiency in the use of resources is sought after as a necessary and desirable goal of industry. This body should work continuously in the light of a clearly enunciated policy on prices which should replace the present *ad hocism* in the realm of pricing.

77. The functions which we would envisage for such a central body can adequately be discharged only by a high-powered Commission to be set up as suggested by the Working Group (D). The staff of the Commission should include technologists, economists and management experts. The Commission should study the cost of manufacture of important products, analyse it into its different components, and make recommendations for achieving reductions therein, wherever feasible, so that an effective dent may be made in the vicious circle of high costs, high prices, erosion of savings, lower rate of capital formulation and high costs.

78. While it will not be a specific task of the Commission to suggest reductions in any of the taxes, it could assess the total impact of the various taxes which constitute a significant part of the total cost. Similarly the Commission will not be required to formulate the wage policy of any industry as there will be other specialised agencies for undertaking such a task. The Commission will, however, evaluate the element of cost attributable to wages and make suggestions or initiate studies for improving the productivity of labour. The impact on cost of the set-up and the functions of the management at various levels, and the inadequacies, if any, in the field like marketing survey and consumer servicing, etc., will also fall within the scope of the Commission's studies.

79. We do not expect the Commission to dissipate its energies in assessing the costs and determining prices of a large number of items. We envisage the Commission to devote its attention to selected essential industrial raw materials and intermediates absorbed in production. Such commodities may be termed as "growth commodities", as suggested by the Working Group (D). These will be such as have an impact on the entire economic field. The Commission will also make investigations into the prices of important industrial products and make recommendations with a view to assisting the Government in evolving a rational pricing policy.

80. The cost reduction studies can be only illuminative and indicative and cannot be statutorily enforced as in the manner of control on prices. Nevertheless Government, industry and trade, and the consumer public will be enabled to get a correct and expert assessment of the cost situation, and one can expect that the light thrown thereon and the weight of public opinion, will lead to the adoption of means which will result in reduction in costs.

81. The enquiries by the Commission will have to be undertaken on the request therefor being made by Government. As the Planning

Commission is interested in the achievement of the conditions of a stable price economy and price discipline in general it should be able to make the fullest use of the Commission on Prices, Cost and Tariff, for the purpose of conducting the studies required in connection with its work. It will, also be open to the Commission to suggest *suo motu* various lines of enquiry and to proceed to embark on them after getting Government's acceptance. The Commission will have to be invested with the powers similar to those enjoyed by the Commission of Inquiry appointed under the Commissions of Inquiry Act, 1952 so that it may be able to get without difficulty, from the persons concerned, the material required by it for its cost studies.

82. The Commission may also take over the functions of the Tariff Commission relating to inquiries connected with Tariff and the latter body may then be wound up. In making this recommendation, we are guided by the consideration that a protective tariff—to be regulated on the advice of the Tariff Commission—has dwindled in importance as an aid to the development of indigenous industry. The implementation of the Industrial Policy Resolution and the adverse balance of payments position necessitating stringent import and exchange controls have created a situation in which indigenous industry is able to function in a sheltered market and finds tariff protection to be of little importance in promoting its development. With this decline in the importance of tariff protection, the number of tariff inquiries has been going down. As compared to the protection afforded by import and foreign exchange controls to a large number of items, the protection granted through the tariff to a few items as a result of the Tariff Commission's inquiries is negligible. We do not see the need any longer for continuing the Tariff Commission in order to conduct the fast diminishing number of tariff inquiries, and so agree with the Working Group (D) that it may be abolished after the setting up of another type of Commission recommended above. The staff of the Tariff Commission may be absorbed in the new Commission whose responsibilities will be much larger than those of the Tariff Commission. The work relating to the small number of tariff inquiries may be entrusted to the new Commission. It is true that the Tariff Commission conducts price inquiries when required by Government. Such work is sporadic and is restricted to ascertaining costs on the basis of the data provided by the industrial units themselves. It is not motivated by the need to ascertain causes of excessive costs, if any, and to suggest means for bringing them down as a part of the programme of national economic development. A cost analysis so motivated can better be undertaken by the Commission, the setting

up of which has been recommended above. This Commission may be designated as the "Commission on Prices, Costs and Tariff" to clearly delineate the function assigned to it. The Working Group (D) has suggested for the Commission the designation. "The National Economic Commission". However, as such a designation is likely to create the impression that that Commission will deal with matters covering an area wider than what we contemplate for it, the name recommended by us would be more appropriate.

83. The Group has suggested that the Commission should be administratively related to the Department of Economic Affairs of the Ministry of Finance. We will make our recommendation in this matter in our report on the 'Machinery of the Government of India and its procedure of work'.

#### **Recommendation 17**

**We recommend that—**

- (1) **A Commission to be known as the "Commission on Prices, Costs and Tariff" should be set up by law for undertaking the following functions:—**
  - (a) determination of prices of industrial products and industrial raw materials and intermediates with a view to assisting the Government in evolving a rational price policy ;
  - (b) conducting studies on the costs of production of selected industrial products and locating the areas in which reductions in costs are feasible and necessary and making recommendations for the achievement of such reduction ; and
  - (c) conducting inquiries relating to tariff protection and making recommendations to Government on the basis of such inquiries.
- (2) **The Commission will conduct inquiries and studies either on a requisition being made by Government or on its own motion after obtaining the concurrence of Government. It should also assist the Planning Commission in carrying out studies relating to prices and cost.**
- (3) **The Commission should be invested with the powers similar to those enjoyed by the Commission of Inquiry appointed under the Commissions of Inquiry Act, 1952.**
- (4) **The Tariff Commission should be abolished after this Commission is set up, and its staff should be absorbed in the new Commission.**

84. The Commission should have a sufficient number of members to enable it to divide itself into small panels where necessary, for conducting detailed enquiries. This number may be seven. The commission will receive assistance from a staff of experts. Besides the staff of the existing Tariff Commission, the staff of Cost Accounts Organisation of the Ministry of Finance and of the D.G.T.D. may be drawn upon. The Chairman should preferably be a non-official. One of the members should represent consumers' interests and another should be a Trade Union representative. The other four members should be drawn from the field of technologists, economists, management experts and accountants. The Commission should also have the benefit of the advice of the D.G.T.D. This arrangement will, while providing the Commission with technical expertise prevent any duplication of work as between the D.G.T.D. and the Commission. As it will be desirable for the Commission to have before it the full nature of the economic implications of any proposal and also the Government's point of view on matters considered by it, the Chief Economic Adviser should also be associated with the work of the Commission. However, in order that there might be no apprehension regarding the independence of the Commission, the D.G.T.D. and the Chief Economic Adviser, while being associated with the work of the Commission, will not be members thereof.

#### **Recommendation 18**

We recommend as follows:

- (1) The Commission should have seven full-time members.
- (2) It should adequately be staffed with experts who are required for the due discharge of its functions. Thus the staff of the existing Tariff Commission, the staff of the Cost Accounts organisation of the Ministry of Finance and the D.G.T.D. may be drawn upon.
- (3) The Chairman of the Commission should, preferably, be a non-official, with high competence and ability.
- (4) Two of the members should be technologists; two of them should be drawn from the field of economists, chartered and cost accountants and management experts; one member should represent consumers' interests and one should be a Trade Union representative.
- (5) The D.G.T.D. and the Chief Economic Adviser should be associated with the work of the Commission. They will, however, not be members of the Commission.

85. The Working Group (D) has stated that it would have very much liked if the recommendations of the Commission relating to price determination were made statutorily binding on Government subject to any specific item being referred back to the Commission for further investigation in case Parliament found it necessary to do so on important grounds. The Group, however, feels that a proposal on these lines would be too "bold" in the present conditions. It has, therefore, made a less drastic suggestion, viz., that the recommendations relating to price determination should be given the highest consideration and dissented from, if at all, rarely. As regards all other functions, the role of the Commission, according to the Group, would be of an advisory nature. We have carefully considered the Group's remarks regarding the treatment to be given to the proposed Commission's recommendations on prices and find ourselves in disagreement with its approach. Any Commission, however, high-powered it may be, is after all appointed by the Government to assist it in taking decisions and framing legislation. Therefore, the role of the Commission can only be advisory. In the Parliamentary system of Government of the type we have in our country, no authority can have over-riding power in the executive field above Parliament and the Cabinet. We would, therefore, like to stress the essentially advisory role of the Commission with regard to all of its functions. It is needless to emphasise that the advice should be entitled to serious consideration and where Government differs from it, it would have to convince Parliament and the people of the justification for doing so.

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## CHAPTER V

### IMPORT CONTROL

86. Import Control seeks not only to ration the foreign exchange resources currently in short supply, but also aims at canalizing those resources into areas which are considered as of high priority for the planned development of the country and at securing reduction in the dependence on foreign supplies in future by providing opportunities for developing indigenous substitutes for those supplies. In our present stage of economic development, we have to get reconciled to living with a shortage of foreign exchange for some years to come. And a policy of progressive import substitution is necessary in order to relieve in the quickest possible time the pressure built up by the adverse balance of payments. In this report we do not propose to deal with mechanics of import licensing. A team appointed in 1963 under the chairmanship of the late Shri H. C. Mathur has already gone into the details of procedure of the Import Control Organisation and has made a number of recommendations most of which have been accepted by Government. We, therefore, propose only to consider the directions in which the administrative set-up now in existence for implementing the import policy needs to be reformed with a view to achieving its objectives with greater efficiency and satisfaction to all concerned.

87. We would like to clear at the outset our views on two preliminary points, namely, whether physical control over imports is at all necessary for achieving the objectives mentioned above and if so, whether any change is necessary in the authority vested with the responsibility for the control. A number of alternative systems in place of the present physical control on imports can, of course, be considered, if control is viewed merely as a mechanism for balancing the supply of foreign exchange with the demand therefore, e.g., a system of multiple exchange rates. However, as already indicated earlier, the objective underlying import control is not simply one of achieving a balance between the demand and supply of foreign exchange. It is also intended to be used as a pool for promoting economic development along lines set out in the National Plan. The working of the market forces cannot be relied upon to discourage the demands of sectors which are considered less essential from the point of view of the Plan or to automatically

meet the needs of those sectors which are essential to planned development. Low priority activities could be quite capable of yielding high profits and the free play of market forces could render certain essential activities commercially less attractive than the low priority ones. It will, therefore, be necessary to take positive action for channelling the resources towards high priority activities by means of physical controls. The import control mechanism is also rendered necessary by the heterogeneous nature and inconvertibility of the large portion of India's foreign resources. Having committed the country's capital to industries considered to be of high priority, we can afford neither to starve them of their imported input requirements nor leave them to the mercy of the price mechanism. We, therefore, consider that the present system of import control should be retained and enforced in a manner whereby the priorities set out for different sectors of industry are reflected in its operations.

88. A suggestion has often been made that actual allotment of permits and licences should be entrusted either to a quasi-judicial autonomous board or to an association of industrialists. It has been argued that such a method for the distribution of permits and licences would inspire confidence in the public. We are not in sympathy with this suggestion. The executive Government cannot divest itself of the responsibility for the operation of physical controls. Apportionment of foreign exchange and licensing of imports are conditioned by several factors which have to be taken into consideration having in view the needs of planned development, e.g., balanced regional development, export promotion, avoidance of monopolies, import substitution, etc. A quasi-judicial autonomous body or a body consisting only of industrialists can hardly be able to concern itself with these factors when distributing licences and permits. We think that there are advantages in combining at governmental level the powers relating to rule-making, licensing, inspection, etc. We do not therefore agree that the power to issue licenses or permits should be transferred to a quasi-judicial body or a body of industrialists. For reasons of similar nature, we also do not agree with the idea that licences should be auctioned in a free market so that the scarcity value of foreign exchange might be realised by Government. We, however, propose later in this chapter a safeguard against arbitrariness and injustice by authority.

#### **Recommendation 19**

**We recommend that the system of physical import control should continue and the organisation for implementing the control should continue to be an executive agency of the Government.**

89. The Study Team in commenting on the procedure for allotment of foreign exchange for maintenance requirements and for the import of current inputs has observed as follows:

"the entitlement of individual importers is determined mainly by two simple criteria which, in fact, influence the allocation decisions all along the control line, namely 'historical' shares and 'registered capacity'. Apart from some adjusting factors like anticipated changes in production, changes in the indigenous content according to phased manufacturing programmes and inventory conditions, which are generally taken into account, the prime consideration is to relate the current allocation to that of the past years. Since the allocation of scarce current inputs determines the level of production, the present system based on historical shares more or less, secures a uniform level of under-utilisation of capacity in all the sectors of industry."

90. We have taken note of the recent relaxation in the import control introduced after the devaluation of the Indian rupee and the liberal treatment accorded to some industries which have been listed as priority industries. They have been assured of the supply of their full requirements and they can apply for import licences any time after the earlier licences have been utilised to a prescribed extent. For the non-priority industries, however, the earlier pre-devaluation practice of the DGTD distributing his allocation among the various industrial units continues. For them, there is no undertaking given by the Government that their full requirements for the optimum utilisation of their plant or equipment will be met.

91. We agree with the Study Team that the present practice of allocating foreign exchange for maintenance imports does not fully take into account the relationship between the amount of resource allocation to a given sector and its resulting output. It is imperative that the apportionment of foreign exchange should be based on reliable statistics of the different ratios of utilised capacities in different industries. Even for industries which are not classified as priority industries and consequently are not guaranteed their full requirements, "a more selective treatment should be possible in place of the present system which distributes scarcity uniformly without any consideration to the marginal utility of the scarce resource like foreign exchange in different industries". A rational system of apportionment must seek to maximise production with the limited amount of foreign exchange available to the country.

92. The Study Team has proposed that the DGTD should periodically work out for each important industry the rate of utilisation of the installed capacity. The DGTD already obtains periodical returns from industrial units in its charge. There should be a systematic processing of this data so that with the information at its disposal, the DGTD can secure such an allocation of current inputs as can ensure their optimum utilisation. As a supplement to this exercise, an endeavour should be made to remove to the maximum extent possible the air of uncertainty regarding the Government's policy for the allocation of exchange for maintenance imports. While there is a special procedure governing the allocation of exchange for the import of capital goods and the policy regarding the import licences for "established importers" is clearly laid down in the Red Book periodically published by the Government, the policy regarding the import of maintenance items required by "actual users" is not made known to the general public. We realise that there are practical difficulties in making a comprehensive declaration of policy, as suggested by the Study Team, for the maintenance imports to be allocated to a vast number of 'actual users'. Nevertheless we feel that an attempt should be made to declare such a policy for as wide an area as possible so that the public may be aware of the principles which will govern the allocation of foreign exchange for maintenance imports over that area.

#### Recommendation 20

We recommend that:

- (1) An attempt should be made to declare periodically for as wide an area as possible the Government's foreign exchange policy regarding maintenance imports.
- (2) The DGTD should periodically work out for each important industry the utilisation of its installed capacity so that the allocation of current inputs could be viewed along with this data to ensure their optimum utilisation.

93. The Government of India set up in January, 1968, an Advisory Council on Trade replacing the Export and Import Advisory Council which had been in existence till then. The functions of the Advisory Council on Trade cover not only the field of imports and exports but also problems of internal trade. This Council is required to review twice a year the performance of the country's economy in its commercial aspects, consider problems relating to expansion of exports, regulation of imports, the operation of import and export

trade control, the working of the commercial services with particular reference to export marketing and export assistance, the organisation and expansion of the export sector of the economy, and the arrangement with regard to internal trade with particular reference to procurement, sale and distribution of essential commodities. The Council includes four Members of Parliament, the Secretary, Ministry of Commerce, the Minister and Deputy Minister of Commerce, representatives of commercial and industrial organisations, representatives of public sector trading organisations, Chairmen of the Commodity Boards, representatives of the Reserve Bank of India and the Export Credit and Guarantee Corporation and several other official and non-official members. In view of the Council's coverage of various business interests, we agree with the Study Team's suggestion that discussions should be held with the Council periodically regarding the policy and the procedure regarding the allotment of foreign exchange to the industries and the principles to be followed in the unit-wise allocation of foreign exchange. At the same time we would like to emphasize that the Council should not be used as a forum for various interests to air their individual grievances.

#### **Recommendation 21**

**We recommend that the policy and the procedures for the allotment of foreign exchange to industries and the principles to be followed in the unit-wise allocation of foreign exchange should be discussed periodically with the non-official members of the Advisory Council on Trade.**

94. Most of the dissatisfaction with the operation of import control arises from a lack of clarity and concreteness in the declarations of policy with regard to imports. A good deal of dissatisfaction can be removed by a timely declaration of import policy in sufficiently detailed terms and by the association of business interests at the time of formulation of the guidelines for the issue of import licences. The removal of grievances will further be facilitated by providing a proper forum to hear appeals against the decisions taken by the licensing authorities. Opportunities are, in fact, now provided for an aggrieved applicant of a licence or permit to seek relief at a higher departmental level. However, in order that the parties concerned may receive greater satisfaction than at present, we suggest the setting up of a Board of Referees who will function in the manner indicated below. At present a person who is not satisfied with the decision of the licensing authority has a right to appeal twice. The first appeal lies with the head of the office in which the application was dealt with. If the applicant is not satisfied with the decision of the first appellate authority, he can make a second appeal to the

Chief Controller of Imports and Exports, New Delhi (Appeals Wing). The Chief Controller can also review the decision taken in the second appeal. Further, there is a Grievances Committee at Government level with the Special Secretary, Ministry of Commerce, as the Chairman, other members of the Committee being two Joint Secretaries from that Ministry and the Chief Controller of Imports and Exports. An appeal for revision lies with this Committee after a person has exhausted the two appeals as well as the "review appeal" mentioned above. There is, however, no statutory provision for the constitution of this Committee.

95. We recommend that after the second appeal, the right to an application for review by Government should be provided for. Such applications may be filed in respect of orders relating not only to the issue of permits and licences but also in respect of punitive orders passed by the licensing authorities. Before disposing of the applications, the Government should obtain the advice of a high powered Board of Referees. As suggested by the Study Team the composition of the Board should be such as to inspire public confidence. Besides very senior officers, the members should include some representatives of recognised bodies in the field of industry and commerce like the Federation of Indian Chambers of Commerce and Industry and Associated Chambers of Commerce. It is, however, not necessary to have a judicial member as such, because no judicial evaluation or legal interpretation will arise in the cases dealt with by the Board. The Study Team has advisedly adopted the designation "Board of Referees" instead of "Appellate Tribunal". We agree with the reasoning underlying this proposal of the Team. No one can question the Administration's right to allocate foreign exchange for different uses in accordance with the pattern which they feel is best suited to give effect to the objectives underlying the Government's import control policy. It is important, however, to ensure that the distribution is governed by well defined and well understood criteria. The party affected should have an opportunity to know what the specific criteria are and how they have been applied. "The function of the Board of Referees is not to guide the Government as to the channels in which scarce resources are to be diverted" but "to ensure that the distribution of the resources has followed the specific criteria. The soundness of the criteria and the technical considerations underlying them are outside the Board's domain".

#### **Recommendation 22**

**We recommend that:**

- (1) Provision should be made for filing review applications to Government against second appellate orders relating to permits and licences, including punitive orders.**

- (2) A Board of Referees should be set up for advising the Government before the applications for review are disposed of.
- (3) The Board of Referees should include, besides very senior officers of Government, representatives of recognised bodies in the field of industry and commerce, e.g., Federation of Indian Chambers of Commerce and Industry and the Associated Chambers of Commerce.
- (4) Where the decision on a review application is not in favour of the applicant the reasons underlying the decision should clearly be brought out.
- (5) The review applications should be disposed of within a period of, say, three months.

96. The Study Team has referred to the requirement that the applicants for import licences should produce income-tax verification certificates or exemption certificates from the Income-tax Officer. In order to save time and labour to all concerned, the Team has suggested that this requirement be done away with and that the income-tax authorities should be required to employ their own methods and resources to ensure collection of arrears. We agree with this suggestion.

#### Recommendation 23

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We recommend that the present practice of calling for income-tax verification or exemption certificates from import licencees should be given up.

## CHAPTER VI.

### EXPORT PROMOTION

97. We have in an earlier chapter referred to the role of import control as a mechanism for ensuring an equitable distribution of scarce foreign exchange and also for promoting conditions whereby the dependence on foreign supplies could progressively be reduced. The problem of adverse balance of trade, faced here as elsewhere in any developing country, cannot, however, be satisfactorily solved unless along with import control, export promotion is undertaken in a big way.

98. Various incentives have been offered by Government in recent years in order to encourage exports. They are generally of the nature of tax concessions, cash assistance or concessions in granting import entitlements. Some of the incentive measures were withdrawn after devaluation in 1966, which in itself was a potential incentive for exports. The Study Team has examined the existing incentives and has suggested some additional ones. The following are examples:—

- (i) Provision of a rebate of income tax related to the increase in a year's export turnover over such turnover of a basic year.
- (ii) Deduction in computing the taxable income twice the amount of expenses, incurred on the exploration of markets subject to the condition that the reduction in tax will not exceed the amount of such expenses.
- (iii) Allowing exporters of non-traditional items to retain a part of the foreign exchange earned by them.
- (iv) Allowing exporters to import raw materials and intermediates in case their internal prices are too excessive or their quality is poor.

99. Proposals like those listed above involve questions of transient details of policy which is subject to change from time to time. No points of long term significance or of an administrative nature are involved. We do not, therefore, propose to comment on them.

### Export Promotion Councils

100. Seventeen Export Promotion Councils have been set up for specific commodities for undertaking market surveys, conducting publicity, propagating information and for serving as a forum through which the exporters could discuss their difficulties with the administration. The Study Team has noted that the Export Promotion Councils have been mostly engrossed in providing assistance to individual members. As a result, the supervision of the working of export assistance schemes and other promotional activities have been neglected. With the abolition, after devaluation, of the special export promotion schemes, it should be easier for these Councils to re-orient their activities to the broader promotional problems, such as study of conditions prevailing in international markets, problems connected with packaging, freight reductions, shipping opportunities, tariffs and devising of methods for increasing export-oriented production in the country. We agree with the Team.

#### Recommendation 24

**We recommend that the Export Promotion Councils should constantly be engaged in identifying handicaps experienced by Indian exporters and recommend adoption of specific remedies to remove them.**

101. A review of the work of the Export Promotion Councils relating to market surveys by the Indian Institute of Foreign Trade has disclosed several shortcomings in the surveys. These surveys lack in depth, and many of them are said to be too sketchy to be of any practical use. The Institute has mentioned that the failure to make market survey reports purposeful and action-oriented was the most serious defect of the majority of the reports it has examined. To remedy these drawbacks, the Institute has suggested that the ultimate purpose of promoting exports needs to be translated into specific objectives and the surveys should be designed to provide specific information to meet specific situations rather than collect general market information. The Institute has also proposed that proper communication should be established between the sponsors of the survey and the market research agency and the sponsors should provide the agency with complete background and information in the context of which the survey is to be undertaken. The Study Team has recommended that the Indian Institute of Foreign Trade being a specialised body and possessing the knowledge of the latest techniques should be the main agency to assist the various sponsoring bodies with the exact design of the market surveys. The Institute also should develop within itself the competence and capacity to undertake assignments of overseas market surveys.

### Recommendation 25

We recommend that:

- (1) The Indian Institute of Foreign Trade should assist the various bodies sponsoring market survey with the exact design of the market surveys and in locating competent foreign surveys and research agencies.
- (2) The Institute of Foreign Trade should also develop within itself the competence and capacity to undertake assignments in overseas market surveys.

102. A sizeable amount of foreign exchange is utilised by delegations and study teams sent abroad. Fifty per cent of the expense including the cost of international travel is met by the Government of India. In order that the valuable foreign exchange placed at the disposal of the Export Promotion Council is utilised to the maximum advantage, certain defects noticed by the Study Team need to be removed. The Study Team also suggests that before departure the delegation should be provided with full statistics and market survey reports concerning the relevant markets. The Indian commercial representatives abroad should invariably be consulted about the proposed itinerary of the delegation so that they could fix useful contacts. On return, each delegation should submit a report containing its observations and the concerned Export Promotion Council should speedily take up the necessary follow-up action.

### Recommendation 26

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We recommend that:

- (1) The following defects relating to delegations to foreign countries sponsored by the Export Promotion Councils should be removed:
  - (a) Bunching of several delegations in one country;
  - (b) Unsuitable timings of the delegations;
  - (c) Inadequacy of the knowledge of the members regarding the commodities concerned and the pattern of their trade; and
  - (d) Inadequate knowledge about the peculiar customs and practices of the country visited.
- (2) On return the delegations should submit reports containing their observations and the concerned Export Promotion Councils should take the necessary follow-up action.

103. The Study Team has taken note of the importance of Export Houses specialising in different commodities in the different regions and possessing necessary marketing skills and resources required for undertaking export business on a large scale and in a sustained manner. Such Export Houses are considered by the Team as necessary for meeting the stiff competition from highly efficient and experienced businessmen operating all over the world to-day. Government have encouraged the formation of Export Houses by recognising them for the purpose of providing facilities like lump sum release of foreign exchange for business visits abroad, grants-in-aid for undertaking market surveys and export publicity, etc. A committee known as the Selective Committee which had examined the scheme of recognition of Export Houses has suggested that competence, credit-worthiness and the resources of the applicant body should be taken into account for the purpose of recognition. That Committee has recommended that the scheme of recognition should enable the Export Houses to develop sufficient specialisation. The Committee has further proposed that recognition should be with reference to specific commodities or group of commodities so that the advantages of specialisation are reaped. The Study Team has, however, noted that Export Houses have yet to build up expertise and that in the initial stages the recognition of Export Houses should not be too restrictive. The recognition may be limited to a specified number of years so that the performance of the Export Houses could be reviewed when they come up for renewal. At the time of this review, Government should ascertain whether the Export House concerned has maintained high standards of integrity and business ethics in its operations and take suitable action accordingly.

#### **Recommendation 27**

**We recommend that while recognition of Export Houses need not be unduly restrictive for some time to come, the recognition should be limited for a specific number of years and its further continuance should depend upon the results of a special review conducted with a view to ascertaining whether an Export House has maintained high standards of integrity and business ethics in its operations.**

104. The Study Team has referred to the increasing specialisation in the field of exports and the emergence of merchant exporters and the problems that are likely to crop up in their relationship with the manufacturers. Differences are likely to arise over the dates of delivery, short delivery, delivery of defective or sub-standard goods, etc. The exporters may also fail in carrying out their part of the contracts. The formulation of a code of standard trade practices will go a long way in eliminating the causes of these

differences. Standard terms of contract could, therefore, be formulated for each commodity or group of commodities with regard to the quality of goods, provision of after-sales service, adherence to samples, etc. The Export Promotion Councils should take up the responsibility of formulating such standard terms.

### **Recommendation 28**

**We recommend that the Export Promotion Councils should formulate a code of trade practices and standard terms covering the contracts between the exporters and the manufacturer for each important commodity or group of commodities.**

### **Commodity Boards**

105. Several Commodity Boards have been established under law for looking after the promotion of certain plantation crops and for stimulation of their exports. The Study Team has examined the functioning of one of these Boards, viz., the Tea Board. The Board consists of 13 members representing owners of tea estates, 5 representing traders including exporters, 7 representing employees in tea estates and gardens, 3 representing Parliament, 6 representing consumers and other interests, and 7 representing the Governments of the principal tea growing States. We agree with the reasoning of the Study Team that the present composition of the Board is satisfactory for bringing together the different interests concerned in this sector of the economy for the purpose of co-ordinated thinking and action. However, we recommend that the Chairman of the Board should not be appointed purely on grounds of administrative ability and that he should be a person with working knowledge of the industry. This recommendation would apply equally to other Boards as well.

### **Recommendation 29**

**We recommend that :**

- (1) The practice of giving representation for various interests on the Commodity Boards should continue.**
- (2) The Chairman of the Commodity Board should be one having a knowledge of the sector concerned.**

106. The Study Team has referred to the criticism that these Boards do not enjoy autonomy in the sense that a public sector enterprise does. The object of the management of the public undertakings is to run them on sound business principles and to make reasonable profits for the concern. These Boards were,

however, created for an entirely different purpose, namely, to create a forum for bringing together representatives of different interests and for facilitating collective decisions for development of production and export of plantation crops. The question of exercising autonomous powers of the type enjoyed by public undertakings does not, therefore, arise. There is, however, a case for freeing these Boards from unessential features of administrative and financial control by the Ministry. After budgets are sanctioned, it should not be necessary for the Board to go to the Government of India for any further sanction on individual items. Similarly, foreign exchange may be placed at the disposal of the Boards after scrutinising their proposals at the beginning of the year and the Boards should be given full freedom to organise their publicity and promotional activities within the limits of foreign exchange placed at their disposal.

### Recommendation 30

We, therefore, recommend that :

- (1) After the budget of a Commodity Board is sanctioned, there should be no further occasion for getting individual schemes approved by the Government.
- (2) The foreign exchange allotment should be made at the beginning of the year after due scrutiny of the proposed expenditure and the Boards should be left to incur expenditure within the allotted funds without further reference to Government.

### Export Credit Guarantee Corporation

107. While the question of export credit is an integral part of the overall credit policy, we shall consider at this stage the functioning of ECGC only. The ECGC has been established with a view to covering the exporters' credit risk and for furnishing guarantee to the financing banks to enable the exporters to get adequate credit facilities. The Study Team made a case study, with the assistance of the National Council of Applied Economic Research, of the working and procedures of the ECGC. It has found that although the business of the ECGC has been expanding, there is still a very large scope for further expansion. Again, although the Corporation's functions as given in its Articles of Association include provision of supplementary finance and granting loans to promote export, it has not provided any supplementary finance for export so far. It has also not given any guarantees to exporters to cover particular countries or buyers.

108. We are not in favour of ECGC diversifying its activities to include supplementary finance. Direct financing is essentially an area of commercial banks and specialised credit institutions. The ECGC is only a credit insurer and guarantor of risk. The two areas of business, namely, giving export credit and guaranteeing credit and risk are entirely different. Export credit relates to the creditworthiness of the exporters while credit guarantee is related to the place of destination of exports.

### **Recommendation 31**

**We, therefore, recommend that the ECGC should not undertake direct supplementary financing of exports.**

109. The coverage of ECGC is wide in regard to certain countries and low in certain others. It has to balance its operations by making suitable adjustments in its treatment to different countries and different commodities. Defaults are likely to arise in the Western industrialised countries and East European countries also and it is not correct to think that there is a higher risk in business transactions in developing countries alone.

### **Recommendation 32**

**We, therefore, recommend that the ECGC should thoroughly examine the past experience in different countries in regard to insurance claims and keep in view the export strategy of Government from time to time in respect of specific markets and specific commodities. They should revise the insurance rates incorporating necessary differentials in the light of various factors mentioned above.**

110. Normally it is the exporter's duty to take necessary action against defaulting buyers. Sometimes, however, the Corporation may take over the responsibility. Once a claim has been paid by the Corporation the stake of the Corporation in recovery is greater than that of the exporter.

### **Recommendation 33**

**We recommend that the Corporation should agree to carry out recovery proceedings on behalf of their clients rather liberally on request. The Corporation should also be given a general permission by the Reserve Bank of India to file cases without the need for specific prior permission in individual cases. A blanket foreign exchange permit should be granted to the ECGC to enable them to meet their legal expenses abroad.**

### Indian Council of Trade Fairs and Exhibitions

111. International fairs and exhibitions are valuable media through which the country can project its industrial image around the world and thus aim at expanding the market for its products. The Directorate of Exhibition in the Ministry of Commerce has been handling these matters, though, after its constitution, the Indian Council of Trade Fairs and Exhibitions (ICTFE) has taken over a considerable portion of this work. The Council is an organisation independent of Government, and its objectives are the promotion and organisation of the participation in international trade fairs, establishment of trade centres and undertaking programmes of visual publicity in the interest of export promotion. The membership of the Council is open to individuals as well as organisations interested in exports. The funds of the Council to a large extent are provided by Government grants, though it also derives income from members' subscriptions and fees from participants in fairs and exhibitions.

112. The Study Team has pointed out that the Directorate of Exhibition has continued to handle a number of foreign exhibitions, especially world fairs like the ones at New York and Montreal, even after the constitution of the Council. As the nature of the activities relating to exhibitions and fairs is essentially commercial, it could best be entrusted to the trade. The Team does not suggest that the whole of the work of the Directorate should immediately be transferred to the Council, but that the transfer should take place as early as possible. The grants-in-aid may continue for a few years. The Council should ultimately become self-supporting, charging the necessary fees for the services rendered to the trade. We agree.

#### Recommendation 34

We recommend that:

- (1) The activities of the Directorate of Exhibition should, as early as possible, be transferred to the Indian Council of Trade Fairs and Exhibitions.
- (2) The grants-in-aid to the Council may continue for a few years, but the Council should ultimately become self-supporting, charging the necessary fees for the services rendered by it to the trade.

113. The Study Team has made suggestions for curtailing the time involved in issuing financial sanctions by Government in individual cases.

### Recommendation 35

We agree with these proposals and accordingly recommend that :

- (1) A bulk allotment of foreign exchange should be made at the beginning of each year. When expenditure is incurred against this allotment, the Department of Economic Affairs need not be required to give a clearance to each item of expenditure.
- (2) The requirements of staff (in terms of man-days) for each fair or exhibition in which the ICTFE is allowed to participate should be worked out and got approved in the beginning of the year and thereafter the Council should be allowed to select the persons and the periods of deputation without further reference to Government.

114. The shortage of our foreign exchange resources renders it necessary that the foreign publicity effort is not spread too widely. We should try to concentrate on a limited number of items. The ICTFE should also help in organising foreign publicity for various Export Promotion Councils who now seem to be dissipating their small resources in ineffective publicity scattered over a large area. The ICTFE by working as their publicity agents could save them a lot of expenditure on Commission. In fact, this Council could work out an overall strategy of commercial publicity abroad, keeping in view the resources available for the entire export sector.

### Recommendation 36

We recommend that :

- (1) Foreign publicity for export promotion should be limited to selected items and areas.
- (2) The ICTFE should help in organising the foreign publicity for various Export Promotion Councils.
- (3) The ICTFE should also work out the overall strategy of commercial publicity abroad, keeping in view the resources available for the entire export sector.

### Drawbacks of Customs and Excise Duties

115. Refund is at present allowed of the import duties on raw materials and components which have gone into the manufacture of goods exported from the country. For some commodities, the

amount of money to be refunded (drawback) on account of customs and excise duties is calculated in accordance with a pre-determined formula. This is an arrangement which is convenient to the Government offices who give the refund as well as to the recipients thereof. However, this facility is not available for a large number of products. The exporters of the products have to go through the complicated procedure of proving the value of the customs and excise duty content in the cost of their exported goods. The lack of certainty regarding the quantum of drawback which he will get also puts the exporter in a difficult position while quoting his prices to foreign customers. The Study Team has suggested that in the interest of procedural simplicity which will enhance the utility of this facility, drawback should be paid at a fixed rate for as many products as possible. It may be that some efficient producers may be in a position to get a refund larger than the value of the duties' content in their costs; but this may be overlooked in the interest of export promotion and the incentive for import substitution it provides. The amount in any case may be reduced if experience shows that the total amounts refunded exceed the duties realised.

#### **Recommendation 37**

**We, therefore, recommend that the system of fixing standard amount of refund on account of customs and excise duties which have gone into the cost of some exported products may be extended to as many more products as possible.**

#### **Review of Export Duties**

116. In June, 1966, the rupee was devalued. This meant a general assistance to all exporters in that it improved the selling position in external markets. As the pre-devaluation prices of certain traditional commodities approximated to international prices, devaluation would have resulted in windfall profits for the exporters of these commodities. Government, therefore, sought to mop up these extra profits through export duties. While the levy of export duties in the then situation was justified, progressive reduction in the long run of these duties may become necessary to compensate for the fall in international prices. The Study Team has suggested that a continuous watch be kept over the international prices of these commodities so that timely reductions in export duties are effected, if necessary, to preserve the competitive position of the exporters. This responsibility should rest with the Ministry of Commerce and Industry which should take the initiative in the matter of suggesting to the Ministry of Finance reduction needed in an export

duty. In the event of a difference of opinion between the Ministry of Commerce and Industry and the Ministry of Finance, the matter will obviously have to be referred to the Cabinet.

### **Recommendation 38**

We recommend that the Ministry of Commerce and Industry should keep a continuous watch on the international prices of the commodities subject to export duties and take the initiative in suggesting to the Ministry of Finance any reduction in the duties required to compensate for the fall in international prices of these commodities. In the event of a difference of opinion in any case between the Ministry of Commerce and Industry and the Ministry of Finance, the matter should be referred to the full Cabinet.

### **Sales Tax on Goods Exported**

117. We have suggested a simplification of the procedure already in existence for giving drawbacks of duties on raw materials and components entering into the manufacture of exported products. But we are not in a position to make a similar recommendation with regard to the sales tax paid on such raw materials and components. There is no scheme for giving drawbacks of Sales Tax in such cases and the formulation of such scheme is fraught with formidable difficulties. Even with regard to giving relief from sales tax on goods which are exported (as distinguished from sales tax paid on raw materials and components), there is no uniform practice. In a few States exemption from or rebate of sales tax is provided on transactions preceding the actual export of certain specified categories of goods. In other States no such relief is provided. An equitable and effective scheme of sales tax relief on exported goods which originate from several States, would require uniformity in the rates of sales tax on the goods selected for sales tax relief. Further, there will have to be an understanding between the States and the Centre regarding the manner in which they should share in providing the relief. We do not, therefore, make any recommendations in this regard and only refer to the subject as one meriting careful examination by the Central Government in consultation with the States.

### **Import Entitlements for Exported Products**

118. Prior to devaluation in 1966, exporters were given, as a measure of export assistance, licences to import a quantum of scarce raw materials and components, in addition to what was allocated to

them under the usual control measures. The additional import entitlement varied between 20 per cent to 75 per cent of the F.O.B. value of exports and was generally pegged at twice the value of the import content. Attractive though the concession was, it was always a subject of controversy. Anyway, it was abolished when the rupee was devalued. The import entitlement is now restricted to the value of imported raw materials and components absorbed in the exported products. The licensee is also allowed to use one-fifth of the value of the licence (not exceeding Rs. 1 lakh) for the import of jigs and tools and equipment for packing, etc. The import content of the important commodities for export is determined by the technical advisers of the Government, viz., the DGTD, the Textile Commissioner, the Jute Commissioner, etc. We agree with the Study Team that this procedure makes for simplicity. We also agree with the Team that in order to remove any misgivings from the minds of the exporters the estimates of import content should be reviewed from time to time by the technical advisers of the Government, in consultation with the representatives of trade and industry.

#### Recommendation 39

We, therefore, recommend that the estimates of the import content in the products exported, adopted for the purpose of calculating import entitlements, should be reviewed periodically, say, once a year, by the technical advisers of the Government in consultation with the concerned Export Promotion Councils and Development Councils.

## CHAPTER VII

### FOREIGN COLLABORATION

119. A developing country, which has embarked on a bold programme of economic development does draw upon the fruits of scientific and technical advance made elsewhere. Such a country should, however, free itself, in the shortest possible time, of its dependence on foreign assistance lest it should, for ever, remain tied down to outside forces and interests. It is, of course, not as if the aim is to do away completely with import of all knowledge and technique. Even in the most advanced countries, there is a two-way traffic of 'know-how'—it is received as well as given. The aim should be not the ending of all commerce in ideas and techniques, but the discontinuance, as soon as possible, of dependence for national survival on foreign assistance. It should, therefore, be the cardinal objective of industrial policy to exploit to the maximum the industrial potential and technical know-how already created in the country. All foreign collaboration should be subject to this basic aim. We would in this connection draw attention to Recommendation 4 of our Report on the Machinery for Planning "that each scheme or project involving foreign aid should clearly set out the measures for dispensing with such aid in the shortest possible time and should also spell out the precise obligations, in this regard, of all concerned".

120. The Working Group (D) has suggested that a Foreign Investment Law should be passed embodying the following provisions:

- (a) Foreign majority holdings in the undertakings in India should be prohibited, save in very exceptional cases where the Government thinks it appropriate in public interest to permit foreign majority holding. In such rare cases, the foreign investment should be of a large magnitude and permission should be given only with the approval of the Cabinet.
- (b) Foreign investments should be guaranteed against nationalisation and expropriation. In those cases where under the formal law of the country nationalisation takes place in public interest, a fair compensation should be given.

(c) The use of foreign brand names should be prohibited.

(d) The units established in India with foreign technical know-how and/or foreign investment should be free to sell their manufactured products anywhere in the world.

121. While we are in agreement with the ideas underlying these proposals, we are not in favour of passing a law as suggested. Such a law would unduly fetter the exercise of discretion by Government in approving foreign collaboration agreements. As regards nationalisation, we are, in principle, opposed to the writing of guarantees of the type suggested by the Working Group into the law of the country.

122. We realise the need for giving the widest publicity to Government's policy in regard to foreign investments in India. This policy can be declared by a Government resolution and laid before Parliament. The basic policy statement which now governs foreign investment is the one made by the late Prime Minister Nehru on the 6th of April, 1949, in Parliament. This statement says that as a rule the major interests, ownership and effective control of an undertaking should be in Indian hands. Government would not, however, object to foreign capital having control of a concern for a limited period if it is found to be in the national interest. Each individual case would be dealt with on merits. It has also been mentioned that if and when foreign enterprises are compulsorily acquired, compensation will be paid on a fair and equitable basis. In the face of such clear declaration of Government policy, it is not necessary to pass a law as suggested by the Group.

123. As regards the last two points made by the Group, namely, that the use of foreign brand names should be prohibited and that there should be freedom for sale in any part of the world by undertakings which collaborate with foreign participants, we consider that these matters should be left to negotiations between the parties concerned subject to approval by Government. After all, there are two parties to an agreement. The laying down of rigid pre-conditions may sometime place entrepreneurs and the Government in an awkward situation if the said conditions have to be subsequently relaxed or altered. We must now presume that the foreign party or even a foreign government will always be altruistic, at any rate in commercial ventures. It is a matter for the parties concerned who will have to safeguard their essential interests to the extent possible. The best thing in the circumstances would, therefore, be to make a declaration of general policy which would provide for exceptional

cases being dealt with on their own merits. The Resolution enunciating the policy can also mention the specific fields of industry, in which foreign investment would be welcome keeping in view the stage of development and the relative priorities. The Resolution may be modified, when necessary, in the light of changed circumstances.

#### **Recommendation 40**

We, therefore, recommend that a Resolution on foreign investment should be issued by Government setting forth its policy regarding conditions subject to which foreign collaboration would be allowed. The Resolution should also provide for exceptional cases being dealt with on merits and also indicate the areas in which foreign investment would be welcome.

124. Apart from outright purchase of know-how against lump sum payments, there are several ways in which foreign collaboration takes place. In some cases, the know-how and technical services may be provided by the foreign collaborator for which he gets paid in the form of royalties and fees. In some other cases, the collaboration is through equity participation the necessary capital being provided in cash or by machinery and equipment. There is also another variety of collaboration which involves provision of equity participation as well as provision of technical know-how and services for which royalties or fees are paid. The administrative Ministries are invested with powers to approve collaboration agreements subject to the payment of royalties for technical know-how being within certain specified limits. When the proposed terms of payment exceed these limits or when the agreements present unusual features, they are discussed and decided upon in an inter-ministerial committee, namely, the Foreign Agreements Committee headed by the Secretary, Ministry of Industrial Development. There are two more inter-ministerial committees dealing with foreign collaboration, namely, the Foreign Investment Committee and the Negotiating Committee to which we shall refer later on. The Study Team which had conducted a case study on the matters coming before the Foreign Agreements Committee found that a vast majority of cases which went before this Committee were within the competence of the administrative Ministries themselves who had been delegated suitable powers in this behalf. We agree with the Study Team that this tendency to transfer the responsibility for a decision falling within one's own powers to an outside committee leads to considerable delays. We, therefore, agree with the Study Team that the Foreign Agreements Committee should in future require the concerned administrative Ministries to state the exceptional features of the cases which

necessitate the concurrence of the committee. If there are no exceptional features, the administrative Ministries must themselves discharge their responsibility in regard to approval of agreements.

125. Foreign collaboration agreements have been drawn up in a large number of cases over the past several years and as suggested by the Study Team it is time that a review of all the agreements is made with a view to evolving standard guidelines for the drafting of agreements. The absence of such guidelines leads to considerable delay in the finalisation of agreements in many cases. Once guidelines are drawn up, consideration of individual cases by the Foreign Agreements Committee will be restricted to a few cases presenting exceptional features. The above review may be undertaken by the DGTD who should draw up the guidelines in consultation with the Department of Economic Affairs.

#### **Recommendation 41**

**We recommend that :**

- (1) **The DGTD should conduct a systematic study of the collaboration agreements entered in the past and recommend, in consultation with the Department of Economic Affairs on points involving financial implications, standard terms of financial and technical collaboration with foreign investors.**
- (2) **This review and standardisation of terms of collaboration could be started in important sectors and later on extended to the remaining sectors as well.**

126. The Foreign Investment Committee under the chairmanship of the Secretary of the Department of Economic Affairs was constituted with a view to giving prompt decisions in cases involving major issues and all cases involving major foreign equity participation. The Study Team, after going through the cases brought up before this Committee, has found that the constitution of the Committee has actually inhibited the exercise of discretion by the concerned administrative ministries because even cases having no serious policy considerations are pushed up to this Foreign Investment Committee. The procedure also requires that the recommendations of the Committee should be submitted for the approval of the administrative Ministry concerned, the Minister of Industrial Development and the Minister of Finance. All this leads to considerable delay. Further, the clearance by the Foreign Investment Committee does not dispense with the approval of the administrative Ministry and the Foreign

Agreements Committee. We feel, therefore, that there is no need for this high level committee and in the interest of expeditious disposal of cases, this additional level of consideration may be done away with. The Foreign Agreements Committee may itself consider the matters which now go to the Foreign Investment Committee. Cases involving major policy matters would in any case have to go to the Ministers concerned and if necessary to the Cabinet.

#### **Recommendation 42**

**We recommend that the Foreign Investment Committee may be abolished and the matters now going before it may be considered by the Foreign Agreements Committee itself.**

127. The Negotiating Committee considers all cases involving investments of over Rs. 5 crores. The Chairman of this Committee is the Cabinet Secretary. We feel that so far as foreign collaboration agreements are concerned, the Foreign Agreements Committee is sufficiently broad-based and that there is no need for another committee to go into these agreements. However, the Cabinet Secretary may be associated with the disposal of cases of foreign collaboration which involve an investment of over Rs. 5 crores.

#### **Recommendation 43**

**We recommend that foreign collaboration agreements involving investments of over Rs. 5 crores need not go to the Negotiating Committee and may be considered by the Foreign Agreements Committee itself. The Cabinet Secretary may, however, be associated with the decisions in these cases.**

128. The Study Team has objected to some of the methods adopted for determination of the quantum of royalties and fees. According to the Team, the quantum of royalties should be determined having in view the relative complexity of technology involved and the facilities available for obtaining it from different sources. It should not be related, say, to the foreign equity participation. Similarly, the Team is against relating technical fees to the value of imported equipment or to the foreign equity participation. Determination of royalties and fees is a question involving technical and economic considerations and we do not propose to make any recommendation in this regard.

129. The Working Group (D) has suggested that Government should draw up three lists, viz., (i) a list of items of technical know-how which could be permitted to be imported; (ii) a list of items in

respect of which know-how is available in the country; and (iii) a list of industries which should not be allowed to go in for foreign technical know-how. These lists should be examined by a Standing Committee consisting of three members of the National Economic Commission (name proposed by the Working Group (D) and changed by us into the "Commission on Prices, Cost and Tariff"), the Director General, C.S.I.R., concerned Directors of National Laboratories, the D.G.T.D., the Chief Economic Adviser and one or two representatives of industries. After scrutiny by this Committee, the above lists should be finalised and given wide publicity. We do not agree with this suggestion. Apart from the unwidely size of the Committee proposed, we do not think it a correct procedure for the Government to prepare the lists suggested and submit them to the Committee for approval. After all, the information required will have to be collected by the D.G.T.D. and we think that the best arrangement would be to make the D.G.T.D. formally responsible for preparing the lists, after consulting the concerned interests. The lists will then be finalised by Government. We have already recommended that the D.G.T.D. should make a review of the foreign collaboration agreements and draw up standard terms of collaboration.

#### **Recommendation 44**

We, therefore, recommend that the DGTD should prepare lists showing items in respect of which import of foreign know-how will be permitted; items in respect of which indigenous know-how is available and industries in respect of which import of technical know-how will be prohibited. After its approval of the lists, the Government should give them wide publicity.

## CHAPTER VIII

### MANAGEMENT OF FOREIGN EXCHANGE

#### Foreign Exchange Budget

130. The exercise of six monthly and annual foreign exchange budgeting started in 1957 when our foreign exchange resources came under severe strain. As practised to-day, it is primarily a system of estimating the receipts and expenditure of foreign exchange over a period and the apportionment of the available resources to various uses in conformity with the priorities of the Plan Programme. The single factor of foreign exchange availability can have a decisive impact on the size and the composition of the annual development plan, and the phasing of individual programmes, etc. In view of this, it is rather disquieting to see that the annual plans within the framework of the Five-Year Plan are more or less, settled primarily on the consideration of the availability of the internal resources without adequate regard to the implied foreign exchange obligations. There has to be a greater inter-linking of the rupee resources at the disposal of the Government, the foreign exchange resources and the bank credit available to the industry or agriculture for arriving at a purposeful policy.

131. The control on the expenditure of foreign exchange is exercised at the point of commitment and not at the stage of actual outgo of foreign exchange. Except for some essential imports, the foreign exchange allotments are made on a half-yearly basis. Even after devaluation, and the liberalisation of imports to meet the current requirements of priority industries, import licences are granted on the basis of the anticipated six months' requirements of the industrial units. We do recognise that the short-term budgets are a logical result of living dangerously near the margin. But the element of uncertainty which this inevitably creates and the practice of accumulating inventories which it understandably encourages have a deleterious effect on industry. The allocation of foreign exchange for the maintenance requirements of the industrial units should, therefore, in general be done on an annual basis. This will bring about some element of certainty so necessary for planning the production programme. Very often, this element of certainty is much more important than the absolute quantum of foreign exchange ultimately granted.

132. There are many obvious limitations on the data which form the basis of foreign exchange budgeting. The utility of the foreign exchange budget entirely depends on the reliability of figures furnished by the Reserve Bank of India regarding the anticipated inflow and outflow of foreign exchange within a specified period. The Reserve Bank, in turn, depends largely on the factual information supplied by the authorised dealers of foreign exchange. The Study Team has brought out the several factors which to-day vitiate the reliability of statistics available to the Reserve Bank of India and the Government. This finding of the Study Team has been endorsed by the Estimates Committee in their 30th Report (1967-68, Fourth Lok Sabha). It is of the utmost importance that the system of data collection should be improved.

#### **Recommendation 45**

**We, therefore, recommend that :**

- (1) The annual foreign exchange estimates should be taken up simultaneously with the formulation of the Annual Plan which should take into consideration the availability of foreign exchange.
- (2) As a general principle, the allocation of foreign exchange for maintenance requirements of the industrial units should be done on an annual basis.
- (3) The system of data collection in the Reserve Bank should be improved and the Bank adequately equipped for tabulating the information collected.

#### **Administrative Arrangements for the allocation of Foreign Exchange**

133. Our general approach of utilising to the maximum the industrial potential already created in the country would require corresponding changes in the arrangements and procedures for allocation of foreign exchange. At the moment, there is no adequate supporting economic data like the installed and utilised capacity of various industries, the amount of imports in the process of movement, stocks at the beginning and at the end of the period, total anticipated demand and production. With the suggestions we made for systematic data collection and processing, both by the Reserve Bank and the D.G.T.D., it should be possible to introduce more sophisticated controls and procedures. The priorities fixed for the industrial sector in the manner recommended by us in Chapter II should

naturally be the starting point for the exercise of foreign exchange allocation. The DGTD should be the authority for initiating these proposals in the light of priorities fixed.

134. We have recommended in Chapter II that for the higher priority industries, licensing should mean commitment for the provision of all inputs including foreign exchange. In the same way, for the second group of industries requiring foreign exchange, the approval of the Capital Goods Committee should not be treated as a mere routine exercise. We envisage that the procedures for foreign exchange allocation should be such that it should be the final stage of a process where foreign exchange resources are committed only to deserving cases who are in a position to use it speedily. Before giving the Capital Goods Committee's approval, it would, therefore, be necessary that the stage of preparedness of industrial units is thoroughly examined.

135. We have earlier emphasised the need for doing away with reliance on foreign aid in the shortest possible period. This would require a concerted effort on all fronts, particularly at the point of allocation of foreign exchange. According to the present procedure, the industrial units are, more or less, sure of a continuing foreign exchange allocation on the basis of past allocations. For ending the reliance on foreign aid speedily, it would be necessary for the DGTD to make a critical examination of the foreign exchange requirements of different industries. This may be done in consultation with the industry. A realistic schedule should be drawn up with their co-operation according to which foreign exchange allocation for the industries will be reduced. If this is done, the industries concerned will have a time perspective before them within which they will make an effort in the direction of import substitution and development of the technical know-how within the industry itself.

#### **Recommendation 46**

**We, therefore, recommend that:**

- (1) The DGTD should initiate the proposals for apportioning the available foreign exchange for current requirements of industries in the light of accepted priorities.**
- (2) The approval of the Capital Goods Committee should be considered as the final stage where foreign exchange resources are committed. Therefore, the stage of preparedness of the industrial units before giving approval should be thoroughly examined.**

(3) The DGTD after a critical examination of the foreign exchange requirements of different industries should work out a schedule according to which the foreign exchange allocation should progressively be reduced.

**Arrangements for the timely and proper utilisation of the Foreign Exchange allocated**

136. One of the causes of delay in the utilisation of foreign exchange is the varying degree of attractiveness to importers of the different sources of foreign exchange. Applicants for import keep moving by stages from the less attractive sources to the more attractive ones. This situation can be avoided if a system of more meaningful allocation of foreign exchange, source-wise, can be evolved. Technical Advisers to the Government should undertake periodical studies to determine the industries for which a creditor country is a particularly suitable supplier of equipment. As the Study team has stated, "what should be ascertained is not merely the technology evolved in the creditor country in comparison to India's needs but also the existence of exporting firms willing to supply the equipment on the terms negotiated on the Government-to-Government basis". The DGTD should be concerned not merely with the prevention of import of equipment which is indigenously available but should also ensure that the technology proposed to be used for a project is best suited to the needs of the country. It should, therefore, determine in advance the types of equipment and the type of industry which can be financed from particular sources to the maximum economic advantage of the country and give wide publicity to them. If intending entrepreneurs are thus provided with information, a considerable time and money involved in negotiating with improbable foreign suppliers will be saved.

137. For some industries, the practice followed is to set monetary limits for the import of plant of standard sizes obviating the need for a detailed scrutiny of the list of goods proposed to be imported. This gives to the industrial unit some flexibility as to the items to be imported within the monetary ceiling. The ceiling obviously has to be periodically adjusted with reference to the manufacturing capacity coming up within the country itself. This practice should be extended to more and more industries so as to enable the entrepreneurs to take the maximum advantage of it without making serious inroads into the country's foreign exchange resources.

138. Compared to the attention at present devoted to the expenditure of foreign exchange on minute invisible items and the

detailed scrutiny of the list of items of equipment, the attention paid to the prices of the imported equipment is surprisingly inadequate. We are well aware that sophisticated equipment is generally not supplied off the shelf but is specially fabricated to meet the requirements of a customer. There ought to be a systematic analysis in the DGTD of the various quotations received by importers from alternative sources of supply. This will serve not only as a guide to entrepreneurs; it will help in detecting cases of deliberate over invoicing.

#### Recommendation 47

We, therefore, recommend that :

- (1) The DGTD should determine and publish in advance for the benefit of importers, the types of equipment and the types of industry which can be financed from particular sources to the maximum economic advantage of the country.
- (2) The present practice of setting overall monetary limits for the import of plants of standard sizes instead of setting limits for individual items should be extended to more industries.

139. We now proceed to deal with a few specific issues arising out of the exercise of foreign exchange control.

#### (i) Grant of Foreign Exchange to Travel for Business Reasons

Applicants who seek to travel for the furtherance of trade, industry and commerce must satisfy the Reserve Bank that the journey is *bona fide* and for the purpose of furtherance of overseas trade. Holding an import licence or an industrial licence or a Letter of Intent is a *prima facie* evidence which helps in deciding the *bona fides* of the applicant. We, however, feel that there is considerable delay in the disposal of these cases in checking whether the person proposing to travel abroad has repatriated earlier export proceeds. We feel that this check, as a matter of routine, is a cause of annoyance and should be given up. It would be far simpler if the Reserve Bank of India could periodically make out a list of those persons who are chronic defaulters in this behalf and who should consequently be black-listed for the release of foreign exchange on business grounds.

140. An applicant proposing to travel abroad in the interest of promoting exports is required to produce evidence of his financial

standing by furnishing a Bank Certificate. We do appreciate the fact that the limited resources of foreign exchange have to be used to the maximum advantage of the country, but a person's bank account is certainly not the only guide in this respect. Businessmen belonging to a firm which is enrolled as a member of any Export Promotion Council or registered with them need not be bothered with the burden of proving their financial standing every time they travel abroad.

#### **Recommendation 48**

We, therefore, recommend that :

- (1) The present practice of checking whether a person proposing to travel abroad has repatriated earlier export proceeds should be given up; instead the RBI should periodically prepare a list of persistent defaulters in this regard who should be black-listed for the release of exchange for travel.
- (2) Businessmen belonging to a firm which is a member of any Export Promotion Council need not be required to furnish a Bank Certificate vouchsafing their financial standing, before they are granted foreign exchange for travel to promote exports.

#### **(ii) Grant of Foreign Exchange for studies abroad**

141. There are detailed rules regulating the release of foreign exchange to students proposing to study abroad. The rules prescribe the courses of studies eligible for this facility and the minimum academic standards which a student must satisfy. No comprehensive regulations can possibly cover the entire field of education with its increasing specializations. This inevitably leads to an exceedingly large number of references from the Reserve Bank to the Government of India. Moreover, the rules keep altering so frequently that students can hardly plan their future programme of study.

#### **Recommendation 49**

We, therefore, recommend that the rules regulating the release of foreign exchange for studies abroad should be widely published for general information and should not be altered for a period of at least three years.

#### **(iii) Grant of Foreign Exchange for Medical Treatment Abroad**

142. Persons who are allotted foreign exchange for the purpose of medical treatment abroad are required to submit to the Reserve

Bank, a statement of accounts showing the amount spent on medical treatment, the sums spent on their own and their attendant's maintenance, etc. We understand that a large number of such persons have in the past failed to rendered satisfactorily accounts.

### **Recommendation 50**

**We, therefore, recommend that the Reserve Bank should insist on the production of proper accounts by persons granted foreign exchange for medical treatment and should undertake where necessary enforcement proceedings.**

#### **(iv) Publication of regulations governing release of foreign exchange for "Invisible Items"**

143. The rapidity with which the regulations relating to the release of foreign exchange for various purposes other than imports keep changing and the inadequate publicity given to these rules causes considerable inconvenience to the public. The number of people affected is enormous and in the absence of an authoritative document laying down the regulations in force, considerable difficulty is being experienced by the general public. In order to remove this uncertainty, the regulations governing the release of foreign exchange for "invisible items" should be published in the shape of a "Red Book" on invisibles. The amount of foreign exchange spent on various uses and wherever practicable, the number of applicants of each of the various types should be published for general information every six months.

### **Recommendation 51**

**We, therefore, recommend that :**

- (1) A "Red Book" on invisibles containing regulations governing release of foreign exchange for invisible items may be published.**
- (2) The amount of foreign exchange spent under the various items and wherever practicable, the number of applicants of various types should be published every six months.**

#### **(v) 'P' Form Control**

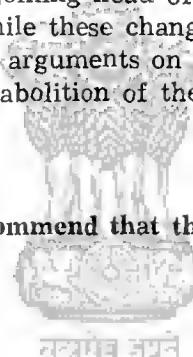
144. The Study Team has examined the working of the present regulations which restrict the travel abroad by Indian nationals. It has referred to the fact that even those who do not seek any release of foreign exchange from the Reserve Bank are subject to travel

restrictions exercised through what has come to be known as the 'P' Form Control. Theoretically, there are arguments to support this control, but the utility or merit of a specific control is measured by its tangible benefits in comparison to the quantum of effort by the Administration and the degree of hardship or harassment to the public. The Study Team has pointed out how the enforcement of this control has led to several malpractices without any countervailing advantage to the foreign exchange resources of the country. There are severe limitation on the usefulness of this type of regulation. Apart from this the intangible benefits of foreign travel to the residents of a country adequately compensate for the amount of foreign exchange involved so long as such travels are not undertaken merely for the sake of 'globe-trotting' or for pleasure.

We have noted that some procedural change has been effected in the case of certain categories of persons going abroad like wife and dependent children joining head of the family, Indian nationals working abroad, etc. While these changes are welcome, they do not affect the validity of the arguments on the basis of which the Study Team has suggested the abolition of the 'P' Form Control.

#### **Recommendation 52**

**We, therefore, recommend that the 'P' Form Control should be abolished.**



## CHAPTER IX

### CONTROL OF CAPITAL ISSUES

145. Capital Issue Control was first introduced in 1944 by a Rule framed under the Defence of India Act, 1939. After cessation of the War it was continued from time to time by an Act of Parliament, namely, the Capital Issues (Continuance of Control) Act, 1947. In 1956, the Act was placed permanently on the Statute Book.

146. The control over capital issues when first imposed was intended to channel the flow of capital towards essential industries. However, after the coming into existence of the Industries (Development and Regulation) Act, the utility of the capital issues as a device for canalising investment in desirable directions has practically vanished.

147. After the issue of the Capital Issues (Exemption) Order, 1966, the importance of this control measure has further dwindled. Under this order issues of capital by banking and insurance companies, private companies and Government companies are exempted from control. Even the issues by public companies will be exempt from control if they satisfy certain conditions laid down in the Order. For instance, one of the conditions is that the issues should be at par and not at a premium or at a discount. A company desirous of availing itself of the exemption should file with the Controller of Capital Issues a statement of its capital issue proposals in a prescribed form. The Controller of Capital Issues should, within 30 days of the receipt of the capital issues proposal, inform the company concerned in writing whether or not he has any objection thereto.

148. Though the procedure outlined above limits the period of consideration of capital issues proposal to one month, we do not see any reason why this procedure should at all be necessary in all these cases which actually satisfy the conditions laid down by the Exemption Order. The Controller of Capital Issues need not spend his time in verifying whether the issue proposals satisfy the conditions. It may be left to the companies to make the issues if they are satisfied that the necessary conditions have been fulfilled. They will have to bear the responsibility for the consequences of the infringement of any of the conditions. The Controller of Capital Issues

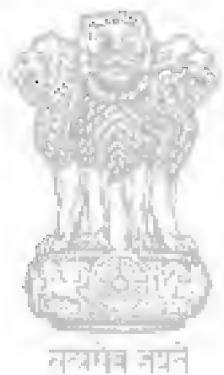
has, of course to see that the rates of interest on debentures, of the preference shares dividends, and of the timing of the big issues are in accordance with the Government's policy. For this purpose he now acts under Section 6(ii) of the Exemption Order which enables the Central Government to modify in the public interest any proposal for issue by a public company desiring to avail itself of the exemption. Even for achieving this purpose, it is not necessary to adopt the procedure of prior reference to the Controller of Capital Issues. Government's policy on interest on debentures and on preference shares dividends should, to the extent possible, be incorporated in the Exemption Order itself. Similarly, Government can declare in which of the months big issues by companies will not be permitted. This declaration can be made under an enabling provision incorporated in the Exemption Order itself. If these steps are taken, companies may be allowed to make their issues without reference to the C.C.I. provided they satisfy the conditions prescribed in the Exemption Order. The work devolving upon the C.C.I. will then considerably reduced and will be confined mostly to cases where shares are proposed to be issued at a premium (mostly by foreign companies) and where interest on debentures and preference shares dividends are proposed to be given at rates higher than those mentioned in the Exemption Order. Cases of the latter type must be rare. As the work of the C.C.I. will be considerably reduced, it will not be necessary to have a separate office headed by a Controller of Capital Issues. The Secretary, Department of Economic Affairs, may be declared as *ex-officio* Controller of Capital Issues and his office should be sufficient to give extra help to carry on the duties of the Controller of Capital Issues.

### Recommendation 53

We, therefore, recommend that :

- (1) The maximum amount of debenture interest or preference share dividends which could be fixed by companies without reference to the Controller of Capital Issues may be incorporated in the Capital Issues Exemption Order.
- (2) The months during which large issues of capital by companies are not to be permitted should be declared from time to time by the Government under powers derived from an enabling provision to be incorporated for that purpose in the Exemption Order.
- (3) The companies may be allowed to make issues provided all the conditions including those relating to the matters referred to at (1) and (2) above are satisfied without making a prior reference to the Controller of Capital Issues.

(4) The separate post of Controller of Capital Issues may be abolished and the Secretary, Department of Economic Affairs may be declared as the Controller of Capital Issues in addition to his own duties.



## CHAPTER X

### ADMINISTRATION OF COMPANIES ACT

149. The Working Group (C) has assembled enough material to show how during the last half a century joint stock companies have steadily grown and now hold an important position in the country's economy. As they make a substantial contribution to the realisation of the goals of planned development in the private sector, their healthy functioning is a matter of public concern. It is, therefore, but appropriate that the regulatory provisions of the Companies Act besides laying down the structure and manner of functioning of companies should seek to prevent malpractices of the management. It should, however, be borne in mind that flexibility and expediency are the essence of commercial enterprise and initiative and discretion are its indispensable aids. Any system of regulation which unduly curbs these would defeat the object underlying the law namely making the institutions effective, efficient, purposeful and sound. Both in framing the rules and taking administrative action, this basic approach must be borne in mind.

150. The Working Group (C) has devoted attention not only to the administrative set-up for administering the Companies Act but also to an examination of the technical content of the law itself and has made some detailed suggestions. We invite the attention of Government to the more important of them which are summarised in the annexure to this chapter. Beyond expressing our agreement with items 4 and 8, we do not propose to make any recommendations on them.

151. The administrative set-up consists of the Department of Company Affairs at the Government level, the Company Law Board have jurisdiction over the whole country, the Regional Directors, each one having jurisdiction over a specified area, and the Registrars, similarly having a jurisdiction over specified area within a region. Most of the powers conferred on the Central Government are delegated to the Company Law Board and the Regional Directors. The Act invests the Courts also with certain powers. The Registrar derives his power directly from the Act. The Advisory Committee constituted under Section 410 of the Companies Act advises the

Central Government and the Company Law Board on such matters as may be referred to it by that Government or the Board.

152. In this chapter we deal with the suggestions made by the Working Group (C) as a result of its study of the functioning of the above administrative set-up and set forth our recommendation thereon.

### **The Advisory Committee**

153. Section 410 of the Companies Act before amendment in 1964 required the Central Government to constitute an Advisory Commission for advising it on matters which involved the use of discretion by the executive when passing orders under certain Sections of the Act. Such matters were enumerated in Section 411 (since repealed). As mentioned in the First Annual Report of the Working and Administration of the Companies Act, 1956, the interposition of the Advisory Commission between the public and the Government was considered desirable because of the large discretionary powers conferred on the Central Government under the different sections of the Act mentioned in Section 411. It was felt that in the exercise of these powers Government should have the advantage of a careful assessment of the pros and cons of individual cases which call for the exercise of Government's discretionary authority by a body of competent people who were generally familiar with company methods and practices and were expected at the same time to take a broad view of the legal and social responsibility of company management and also of the pervasive public interest implicit in the manner in which the companies carried on their work. However, later on Section 410 was amended and a provision was made for the establishment of an Advisory Committee to replace the old Company Law Advisory Commission. The Committee which has since been constituted will give advice only on such matters arising out of the administration of the Act as may be referred to it by the Government or the Company Law Board. In other words, there is no obligation on the part of the executive to seek the advice of the Advisory Committee when dealing with the matters which, in the past, would have been referred to the Advisory Commission. The Working Group (C) has suggested that the Advisory Committee should be endowed with powers and responsibilities in respect of those areas where the Administration now exercises wide discretionary authority in regard to the many aspects of company management and practice. The majority of the Working Group (C) has suggested that the Central Government should consult the Advisory Committee and formulate general principles and guidelines in respect of the following matters:

- (1) Managerial appointments and remunerations.
- (2) Removal of managerial personnel.

- (3) Sole selling agents.
- (4) Inter-company investments and loans.
- (5) Inspections and investigations.
- (6) Cost audit and special audit.
- (7) Disclosures required in prospectus.
- (8) Exemption of Government companies, under section 620.
- (9) Desirable debt, equity ratios.
- (10) Amendment of Schedules.

The majority does not consider it necessary for Government to seek the advice in individual cases, if the decisions are taken within the approved guidelines. We agree with the majority's suggestion which can be carried out without any amendment of the law.

154. A minority of the Working Group (C) is inclined to the view that every individual case involving exercise of discretion by Government should be referred to the Advisory Committee for advice. In its opinion matters which require the advice of outside bodies would fall into two types, namely, those involving technical or quasi-technical problems and those concerned with the exercise of discretionary executive powers. No general principles or guidelines could be formulated for dealing with the latter type of cases. It could, therefore, be a valuable safeguard to all concerned, if decisions involving the use of discretionary powers were taken on the considered advice of a body outside the administration. We do not agree with this view. If no general principles or guidelines can be formulated in dealing with cases involving discretion, consultation with an outside body will be pointless. Such consultations will only lead to the substitution of one unguided discretion by another unguided discretion. We are, therefore, of the view that attempts should be made to evolve guidelines even in respect of matters involving discretion and that for this purpose the Advisory Committee should be consulted. Cases which deviate from the guidelines should, as a matter of course, be referred to the Advisory Committee. Government may also refer to the Committee any other important matter not covered by those for which guidelines are given.

#### **Recommendation 54**

**We recommend that :**

- (1) Government should formulate general principles and guidelines in consultation with the Advisory Committee in respect of important matter.

**(2) Cases arising in areas in respect of which guidelines are prescribed should be referred to the Advisory Committee for advice if they deviate from the guidelines.**

### **Inspections and Investigations**

155. Broadly speaking, Government exercises three types of powers which enable it to prevent malpractices by management or uncover them, if they had already taken place. These are : (a) the power to get books of accounts and other books and papers inspected by the Registrar or by any other Government officer authorised in this behalf,—*vide* Section 209(4)(b) of the Companies Act; (b) the power to direct that a special audit be carried out either by the Company's auditor or some other Chartered Accountant,—*vide* Section 233A of the Companies Act; and (c) the power to appoint one or more competent persons to investigate the affairs of any company on application by the members of the company or on a report by the Registrar or in pursuance of a court order or on its own initiative. A Directorate of Inspection has been established with headquarters located in the Department of Company Affairs, New Delhi, with the object of organising inspections under Section 209 (4) (b). Such inspections are carried out by Regional Inspectors under the guidance of a Director of Inspection and Investigation. The intention apparently was to make inspections, as a matter of course, of all the companies in the country. However, in practice inspections are undertaken only when there are some special reasons for it, say, when a complaint has been made about the manner in which the company is being run. The results thrown up by such inspection may indicate the need for a special audit or investigation. The Company Law Board, after going through the special audit or investigation report, as the case may be, can initiate punitive action against the management if found necessary, such punitive action may also be taken on the results of original inspection itself. It is also possible that special audit or investigations may be ordered without there being a formal inspection under Section 209(4) (b).

156. The Working Group (C) has pointed out how with the functional control of the regional inspecting staff being exercised from the Centre, the Regional Directors did not feel that they had that measure of direct responsibility for the inspection work in their region as for the other work looked after by them. This is unfortunate. It would be but appropriate that Regional Directors who discharge several functions with respect to the companies in their regions should be fully cognisant of the manner in which these companies were being run. In this connection, inspections carried out

under Section 209(4)(b) will be of immense value. We, therefore, agree with the Working Group (C) that the Director should be relieved of the responsibility for organising inspections which should be transferred to the Regional Directors. The Director will then be concerned primarily with the formulation of principles and techniques for the guidance of the Regional Directors and the inspecting staff. He will also be responsible for working out an integrated procedure relating to the implementation of the sections dealing with inspections, special audit and investigations. After shadding the responsibility for conducting of inspections, he should be able to find time to attend to the much more important task of directing investigations and later on for following up the results of the investigations with the help of competent technical officers. We are in agreement with these suggestions.

#### **Recommendation 55**

We recommend as follows:

- (1) The responsibility for the conduct of inspections should be transferred to the Regional Directors of Company Law Administration to whom Regional Inspectors are administratively subordinate. The Regional Directors should, however, draw up the programme for inspection in advance and get them approved by the Director of Inspection.
- (2) The Regional Directors should take such follow-up action on the inspection reports as is found necessary in all matters in respect of which powers have been delegated to them under the Act. Other matters should be referred to the Central Directorate.
- (3) With the transfer of his responsibility for the conduct of inspections to the Regional Directors, the Director of Inspection and investigation should concentrate on the directing of investigation, and on the follow-up action (including prosecution) found necessary as the result of investigation. He should be re-designated as Director of Inspection, Investigation and Prosecution.
- (4) The Director will formulate principles, procedures and techniques for carrying out inspections and investigations. The Director will give, where necessary, technical guidance in individual cases to the Regional Directors and the regional inspection staff. Where inter-regional inspections are to be carried out, he will have to devise ~~concerned~~

strategy which will ensure effective co-ordination of the inspections carried out in various regions.

(5) Those parts of the Secretariat which deal with inspection, investigation and prosecution, should be transferred to the Director so that duplication of work may be avoided. Matters of policy and final approval of prosecution will, of course, continue to be dealt with in the Secretariat.

157. One of the members of the Working Group (C), Shri S. Venkataraman, has suggested that at some important centres, there should be inspection wings working directly under the Director of Inspection. These would be required for carrying out inspections, as a preliminary to detailed investigation and for studying the working of inter-related companies located in different regions. We do not see any objection to providing special facilities for inspections under the guidance of the Director of Inspection in some selected cases while transferring the responsibility for inspection, in general, to the Regional Directors.

#### **The Company Law Board**

158. In October, 1963, the Department of Company Law Affairs was abolished and the Company Law Board was set up in February, 1964. Most of the powers and functions of the Central Government under the Companies Act have been delegated to the Board. Later, a combined Department of Company Affairs and Insurance was created and the Chairman and Members of the Board were re-designated as Secretary and Joint Secretaries of the Department. Insurance was later taken out of this Department which thence forward was designated as Department of Company Affairs. The Working Group (C) suggests that the Company Law Board which does not discharge any special functions be wound up and that the responsibility for the administration of the Companies Act be placed "squarely and visibly" on the Department of Company Affairs.

159. We are not inclined to agree with this suggestion. We welcome the introduction of the principle of collective decision at top levels in certain types of situations of which the cases arising in Company Law Administration furnish good examples. It is in the light of this principle that we have recommended in another part of this report the setting up of Development Boards for Textiles and Coal. We understand that while the Members can dispose of certain types of cases allocated to them, decision on important matters and subjects are taken by the entire Board. This appears to be a satisfactory arrangement and may be continued.

### Administrative functions discharged by Courts.

160. The Working Group (C) suggests the setting up of Administrative Tribunals in the more important commercial centres and of an Appellate Administrative Tribunal at Delhi to handle and dispose of the increasingly large number of company cases which are now referred to the Courts. We will deal with this suggestion in our report on Administrative Tribunals. There is, however, a case for relieving the Courts of items of merely administrative nature. These could be transferred to the Central Government which could delegate them to the Company Law Board or the Regional Directors. The Courts will then be left with only such cases as would involve the shifting of evidence through judicial processes for the purpose of arriving at findings. The relevant provisions of the Companies Act may be gone through and the functions which are of routine administrative nature may be transferred to the executive. The provisions of the Companies Act for winding up also invest the Courts with some functions. Some of these are administrative. An illustrative list of such functions is given in the annexure to Chapter XIII of the report of the Working Group (C). We agree that such functions may be transferred from the Courts. The transfer should, however, be to the Administration.

#### Recommendation 56

**We recommend that the functions which are now discharged by the Courts under the Companies Act may be reviewed and those which are of routine administrative nature may be transferred to the executive.**

#### **The proposal for an integrated administration for Company Law and certain other enactments.**

161. The Working Group (C) has suggested that in the interest of efficiency and purposive administration of not only the Companies Act but also of the other related enactments dealing with capital issues, stock exchanges, the Financial Corporations, the Life Insurance Corporation and the Unit Trust all, these subjects should be administered under the broad policy guidance of one and the same Ministry. It then envisages setting up of an integrated Ministry dealing with all these subjects to which the work relating to the Industries (Development and Regulation) Act concerning the investigation of companies in distress should be transferred. We are not convinced of the need to put all these subjects under a separate Ministry. Nor are we convinced of the need of subjects other than Company Law Administration being administered in close proximity with the Company Law

Administration. Capital issues control throws up issues which are mainly for the Finance Ministry to consider. It does not deal with the administration of companies; it has only to implement Government's financial policy with regard to investments, interest rates, etc. Similarly, the Financial Corporations are banking institutions par excellence and they have very little to do with company administration. The Unit Trust, again, is an instrument for the achievement of Government's economic policy relating to channelling of funds into selected investment areas. Similarly, activities of the Life Insurance Corporation hardly concern company administration. A part of its investment is no doubt being made in companies' securities, but this does not mean that the administration of Life Insurance should be done in close association with the administration of company law. Thus, we do not see any compelling reason for bringing the above four subjects in close association with the Company Law Administration. There may, however, be some justification for bringing Stock Exchange Regulation into close relationship with the Company Law Administration, and to this extent we agree with the Working Group.

#### **Recommendation 57**

**We recommend that the work relating to Stock Exchanges may be transferred to the Department of Company Affairs.**

#### **Workers' Participation in Management**

162. The Working Group (C) has stated that the time has not yet arrived for providing for participation of workers' representatives in the management of companies. The demand for such representation does not appear to be particularly strong. It is only after further improvements have been made in worker's rights and more systematic and comprehensive use has been made of a wide range of joint determination within an enterprise in its day-to-day activities that statutory representation of workers in the management of companies whether at the top (Board), middle (Executive management) or lower (Shop-floor) levels may be considered.

163. The Commission is of the view that consideration be given to the important issue of participation of workers' representatives in the management of companies. This subject will undoubtedly be considered by the National Commission on Labour. The trend in democratic countries to-day is to make the workers feel a legitimate sense of participation.

## ANNEXURE TO CHAPTER X

### **Some of the suggestions made by the Working Group (C) for the amendment of the Companies Act—Reference to the para 150**

1. A comprehensive look should be taken at the detailed provisions of the Companies Act and also of the other related statutes at an appropriate time as soon as the Legislature has dealt with the Monopolies and Restrictive Trade Practices Bill which is now before a Select Committee.
2. The definition of "private company" contained in the Companies Act, 1956 should be amended and a private company should be defined as one which restricts the right to transfer shares, limits the number of its members to 50, prohibits any invitation to the public to subscribe for shares and also restricts its borrowings from the public and financial institutions other than banks, etc., to 50 per cent of its paid-up capital.
3. The time is not yet ripe for writing into the company law specific provisions for setting up of a 2-tier boards, namely, supervisory and the management boards. The business leaders should in the meanwhile consider whether it would not be advantageous to encourage the growth of an informal type of collegiate management under the board supervision and control of composite boards of directors. The efficiency, quality and the harmony of management would considerably increase if the senior executives of companies are given access to the management board and could participate on an equal footing with the top management in major policy-making.
4. Following the abolition of the Managing Agency system the law should provide compulsorily for at least one Managing Director or one whole-time Director or a manager being provided with a seat on the Board of every public company.
5. The Companies Act provides that no one can be appointed to be a Managing Director for more than two public companies except with the approval of the Central Government. This prohibition should also extend to private companies, i.e, no one who is a Managing Director of a public company shall be appointed Managing

Director of more than four companies in all of which not more than two should be public companies.

6. The maximum number of companies in which a person can be a director should be reduced from 20 to 15.

7. No one who has attained the age of 70 should be permitted to continue as a Director.

8. The number of ordinary directorships which the managing or a whole-time director of a public company will hold should not be more than 2 or 3.

9. The Group does not recommend a compulsory system of proportional representation for all or even selected groups of companies. Even the option given to a company by Section 265 has not so far been used. Government may, however, study this matter and also the suggestion that where a substantial majority of shareholders ask for the appointment of a director in addition to those who are already on the board, it should be necessary for a company to appoint him notwithstanding anything contained in the Articles of the Company or the Act.

10. The right to speak should be extended to a proxy.

11. The companies should provide compulsorily for the appointment of qualified Secretaries in the case of large public companies with a paid-up capital of Rs. 50 lakhs or more. Suitable qualifications for such Secretaries should be prescribed by Government.

12. It is difficult to lay down any general principles prescribing the qualifications and experience needed by the Managing Director or whole-time director. Nevertheless the Administration should be able to lay down in general terms the type of individuals who would *prima facie* be judged unfit for appointment as managing or whole-time director and make its policy known to the business community and to the shareholders and other directly concerned with the management of companies. Section 274 lays down some disqualifications. The Administration should add to this list in the light of its administrative policy as regards the appointment or re-appointment of managing or whole-time directors.

13. While suitable amendments should be made to prohibit the contribution to political parties or for political purposes, similar ban

should not be imposed on the use of company funds for charitable purposes.

14. (a) Government should sanction a reasonable remuneration for the entire period of the first appointment of a Chief Executive.

(b) In the case of going concerns the remuneration duly approved by Government should be deemed to be the minimum remuneration for a period of two to three years at a time. If at the end of this period it is found that the amount of remuneration sanctioned is in excess of the statutory limit, Government should have the right to review the case and to prescribe such other remuneration as may be appropriate to the fortunes of the company.

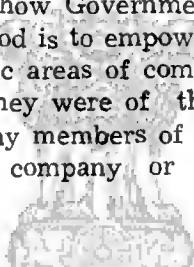
(c) Further, in the case of going concerns, the shareholders should be free to fix the remuneration of the Chief Executive within the limits of the ceilings statutorily fixed and subject to such maximum administrative ceilings as may be fixed. The decision of the shareholders should be taken by a special resolution at a meeting. The decision should be conveyed to Government within a fortnight of the special meeting. Government should have the right to order any suitable modification in the proposed remuneration and other terms and conditions of employment of the Chief Executive. If no objection is raised by Government within a period of 60 days after receipt of the company's proposals, they should be deemed to have been approved.

15. (a) Government should consider strengthening of the provisions of Section 294 particularly of sub-section 4(b)(ii) so as to enable them to keep a close watch on the tendency to use the selling agency agreements as a device for unduly adding to the remuneration of the management of companies.

(b) Senior officers of the department in consultation with selected representatives of trade and industry should evolve appropriate guidelines for the use of departmental officers entrusted with the responsibility for the administration of the provisions of the law relating to sole selling agents. Copies of all sole selling agency agreements entered into by public companies with a turnover over a prescribed limit in any particular line of trade or industry should be submitted to Government for registration in the regional offices. It should be open to Government to modify the terms of these agreements at any time during their pendency after hearing the parties concerned, and companies should be required to give effect to these modifications with effect from such date as Government might indicate.

16. The tendency to substitute consultants, technical advisers, agents or special officers for the managing agents should be checked. Bona fide consultants or technical officers should be compensated by means of fees so calculated as to ensure that they are commensurate with the value of the services. The remuneration should not be fixed as *ad hoc* percentages of commission on gross profits. In any case where remuneration is given in the form of a percentage of gross profits it should be subject to ratification by the company in a general meeting within a period of not more than six months. Government may also consider the system of registration of consultants and technical advisers.

17. Section 408 of the Companies Act enables the Government to make appointments of one or two directors. It was expected that these nominees would be able to pull their weight and to influence decision-making by the other members of the Board. The expectations have been largely belied. It is, therefore, necessary that Government should consider how Government Directors can most effectively function. One method is to empower them to hold up decisions in respect of some specific areas of company management and refer them to Government if they were of the view that such decisions would be oppressive to any members of the company or might prejudice the interest of the company, or might be against the public interest.



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## CHAPTER XI

### SUMMARY OF RECOMMENDATIONS

#### CHAPTER II—STRATEGY FOR ECONOMIC DEVELOPMENT

1. The Prime Minister should keep herself informed about the overall progress in the implementation of the Plan with a view to ensuring that all the sectors of the economy move forward in unison with the Plan and to issue necessary directives.
2. As soon as the Plan is formulated and approved, each Ministry or Department concerned should frame operational equivalents of the Plan proposals. On this basis a general paper covering the entire field of Central and State developmental activities should be prepared and circulated to all concerned. The paper should contain guidelines for development in high priority areas and should be in the form of a policy-cum-operational statement for the short-term.
3. The broad strategy for industrial growth should aim at harnessing the high potential already created in the industrial sector and the technological know-how available and ending in the shortest possible time the present state of abject dependence on foreign aid.
4. The organisational structure of public sector enterprises should be strengthened by creating technically competent and high-powered sectoral corporations.
5. All industries should be divided into three categories :
  - (a) A high priority category comprising a small number of industries which would involve a large capital investment [and/or a considerable amount of foreign exchange. The industries in this category should be licensed. The license should be [given only after the earmarking of inputs has been completed.
  - (b) Industries which require foreign exchange and/or assistance in the matter of other inputs and are not included in the category (a). They should be graded according to a scheme of priorities. While they will not require to be licensed, allocation of foreign exchange and other inputs will be in accordance with the schedule of priorities.
  - (c) All other industries which do not require foreign exchange and which are not entitled to any priority consideration in the matter of allocation of other inputs. These industries will not require to be licensed.

### CHAPTER III—THE ROLE OF GOVERNMENT IN INDUSTRIAL DEVELOPMENT

6. The subjects of Commerce and Industry should be combined into a single Ministry of Commerce and Industry. This Ministry should be responsible for formulating broad policies and strategy for industrial and commercial development in the public as well as private sectors. It should, however, not be in administrative control of any public sector industrial undertakings.
7. (1) The work of the DGTD should be divided among a number of Directorates, each Directorate being responsible for advisory service to a group of related industries. Above the level of Directors, there should be three or four Deputy Directors-General, each of them having under him a few Directors dealing with broadly related subjects.
  - (2) In Ministries which have to deal with sizable areas of industrial development or one or more major industries, there should be a complement of technical officers at senior levels drawn from the field, i.e., from the public sector enterprises and other organisations throwing up technical talent.
  - (3) The advisory service provided by the DGTD should [also extend to sugar and vanaspati.
8. (1) The higher technical posts in the organisation of the DGTD should appropriately be graded with suitable emoluments for each grade.
  - (2) Provision should be made for the appointment to higher technical posts "on contract" for specified periods.
  - (3) Officers who work under Government for a long period should periodically be deputed to field organisations so that their outlook may be realistic and their knowledge up-to-date.
9. The Director General, Technical Development, should be specifically charged with the responsibility for promoting modernisation.
10. The DGTD, though placed in the Ministry of Commerce and Industry should be viewed as a common service agency to the entire Government of India. Ministries dealing with individual or sectoral industries or public sector undertakings should be able to draw upon this service directly.
11. (1) It should be desirable to constitute Development Boards for industries which may assume large dimensions and require special care in the matter of development and regulation.

(2) The functions of the Boards will be—

- (a) planning of production and setting up of production targets;
- (b) furnishing the necessary technical advice to Government;
- (c) providing technical consultancy service to public sector undertakings, other autonomous organisations, and the private sector;
- (d) ensuring the provision of necessary scarce inputs to industry; and
- (e) collection, maintenance and publication of industrial statistics.

(3) The Heads of these Boards should be able to deal directly with the Secretary and the Minister concerned, their offices functioning also as the offices of the Ministry.

(4) The Development Boards should be compact, well-integrated bodies and should be composed largely of technical and specialist personnel of high competence.

(5) Persons with economic and management expertise may be appointed as members of a Board if the nature and the needs of the industry concerned justify such an appointment. One of the members could be an administrator with a flair for or having specialised knowledge of or experience in the economic and financial fields.

12. (1) The Coal Board should be reconstituted into a Development Board of the type we have described.

(2) It should *inter alia* be entrusted with functions relating to expansion and modernisation of mines, procurement of machinery, distribution of coal, co-ordination of research, import substitution and export promotion.

(3) The regulatory functions now being exercised by the Coal Controller should be transferred to the Board.

(4) The Board should have a high-powered full-time Chairman, having the requisite knowledge and experience in the technical field of mining and geology. There should be four other members, namely, Member (Technical), Member (Finance and Administration), Member (Commercial) and the Chief Mining Engineer.

(5) The Coal Board, when dealing with matters other than regulatory, should co-opt an advisory body consisting of—(a) the Director General of Mines Safety; (b) a senior officer of the transportation wing of the Railways; (c) a representative of public sector collieries; (d) one representative of the private sector collieries and (e) two representatives of the principal consumers.

13. The Chief Inspector of Mines should continue to be responsible for the enforcement of mines safety regulation.
14. The licensing function of the Iron and Steel Controller in respect of import of steel should be transferred to the Chief Controller of Imports and Exports. The remaining functions of the Iron and Steel Controller should be transferred to a Directorate of Iron and Steel in the Ministry of Iron and Steel.
15. A Development Council for Iron and Steel under the Industries Development and Regulation Act should be constituted in place of the present Advisory Council in the area.
16. (1) A Development Board of the type we have described should be constituted for Textiles.
- (2) The Board should have five full-time members designated as Member, Cotton Textile; Member, Jute; Member, Man-made Fibres; Member, Wool; and Member, Financial Administration.
- (3) The Office of the Member-in-charge, Jute Industry, should be located in Calcutta and should assume all functions which are at present performed by the Jute Commissioner.
- (4) The offices of the Textile Commissioner and the Jute Commissioner will be merged into the organisation of the Board.

#### CHAPTER IV—COMMISSION ON “PRICES, COST AND TARIFF”

17. (1) A Commission to be known as the “Commission on Prices, Costs and Tariff” should be set up by law for undertaking the following functions:
  - (a) determination of prices of industrial products and industrial raw materials and intermediates with a view to assisting the Government in evolving a rational price policy;
  - (b) conducting studies on the costs of production of selected industrial products and locating the areas in which reductions in costs are feasible and necessary and making recommendations for the achievement of such reduction; and
  - (c) conducting inquiries relating to tariff protection and making recommendations to Government on the basis of such inquiries.
- (2) The Commission will conduct inquiries and studies either on a requisition being made by Government or on its own motion after obtaining the concurrence of Government. It should also assist the Planning Commission in carrying out studies relating to prices and cost.

- (3) The Commission should be invested with the powers similar to those enjoyed by the Commissions of Inquiry appointed under the Commissions of Inquiry Act, 1952.
- (4) The Tariff Commission should be abolished after this Commission is set up, and its staff should be absorbed in the new Commission.
- 18. (1) The Commission should have seven full-time members.
- (2) It should adequately be staffed with experts who are required for the due discharge of its functions. Thus the staff of the existing Tariff Commission, the staff of the Cost Accounts organisation of the Ministry of Finance and of the DGTD may be drawn upon.
- (3) The Chairman of the Commission should, preferably be a non-official with high competence and ability.
- (4) Two of the Members should be technologists; two of them should be drawn from the field of economists, chartered and cost accountants and management experts; one member should represent consumers' interests and one should be a Trade Union representative.
- (5) The DGTD and the Chief Economic Adviser should be associated with the work of the Commission. They will, however, not be members of the Commission.

## CHAPTER V—IMPORT CONTROL

- 19. The system of physical import control should continue and the organisation for implementing the control should continue to be an executive agency of the Government.
- 20. (1) An attempt should be made to declare periodically for as wide an area as possible the Government's foreign exchange policy regarding maintenance imports.
- (2) The DGTD should periodically work out for each important industry the utilisation of its installed capacity so that the allocation of current inputs could be viewed along with this data to ensure their optimum utilisation.
- 21. The policy and the procedures for the allotment of foreign exchange to industries and the principles to be followed in the unitwise allocation of foreign exchange should be discussed periodically with the non-official members of the Advisory Council on Trade.
- 22. (1) Provision should be made for filing review applications to Government against second appellate orders relating to permits and licences including punitive orders.

- (2) A Board of Referees should be set up for advising the Government before the applications for review are disposed of.
- (3) The Board of Referees should include, besides very senior officers of Government, representatives of recognised bodies in the field of industry and commerce, e.g., Federation of Indian Chambers of Commerce and Industry and the Associated Chambers of Commerce.
- (4) Where the decision on a review application is not in favour of the applicant the reasons underlying the decision should clearly be brought out.
- (5) The review applications should be disposed of within a period of, say three months.

23. The present practice of calling for income-tax verification or exemption certificates from import licensees should be given up.

## CHAPTER VI—EXPORT PROMOTION

- 24. The Export Promotion Councils should constantly be engaged in identifying handicaps experienced by Indian exporters and recommend adoption of specific remedies to remove them.
- 25. (1) The Indian Institute of Foreign Trade should assist the various bodies sponsoring market surveys with the exact design of the market surveys and in locating competent foreign surveys and research agencies.
- (2) The Institute of Foreign Trade should also develop within itself the competence and capacity to undertake assignments in overseas market surveys.
- 26. (1) The following defects relating to delegations to foreign countries sponsored by the Export Promotion Councils should be removed :
  - (a) Bunching of several delegations in one country ;
  - (b) Unsuitable timings of the delegations ;
  - (c) Inadequacy of the knowledge of the members regarding the commodities concerned and the pattern of their trade ; and
  - (d) Inadequate knowledge about the peculiar customs and practices of the country visited.
- (2) On return the delegations should submit reports containing their observations and the concerned Export Promotion Councils should take the necessary follow-up action.
- 27. While recognition of Export Houses need not be unduly restrictive for some time to come, the recognition should be limited for a specific

number of years and its further continuance should depend upon the results of a special review conducted with a view to ascertaining whether an Export House has maintained high standards of integrity and business ethics in its operations.

28. The Export Promotion Councils should formulate a code of trade practices and standard terms covering the contracts between the exporter and the manufacturer for each important commodity or group of commodities.
29. (1) The practice of giving representation for various interests on the Commodity Boards should continue.  
 (2) The Chairman of the Commodity Board should be one having a knowledge of the sector concerned.
30. (1) After the budget of the Commodity Board is sanctioned, there should be no further occasion for getting individual schemes approved by the Government.  
 (2) The foreign exchange allotment should be made at the beginning of the year after due scrutiny of the proposed expenditure and the Boards should be left to incur expenditure within the allotted funds without further reference to Government.
31. The Export Credit Guarantee Corporation should not undertake direct supplementary financing of exports.
32. The ECGC should thoroughly examine the past experience in different countries in regard to insurance claims and keep in view the export strategy of Government from time to time in respect of specific markets and specific commodities. They should revise the insurance rates, incorporating necessary differentials in the light of various factors mentioned above.
33. The Corporation should agree to carry out recovery proceedings on behalf of their clients rather liberally on request. The Corporation should also be given a general permission by the Reserve Bank of India to file cases without the need for specific prior permission in individual cases. A blanket foreign exchange permit should be granted to the ECGC to enable them to meet their legal expenses abroad.
34. (1) The activities of the Directorate of Exhibition should, as early as possible, be transferred to the Indian Council of Trade Fairs and Exhibitions.  
 (2) The grants-in-aid to the Council may continue for a few years, but the Council should ultimately become self-supporting, charging the necessary fees for the services rendered by it to the trade.

35. (1) A bulk allotment of foreign exchange should be made at the beginning of each year. When expenditure is incurred against this allotment, the Department of Economic Affairs need not be required to give a clearance to each item of expenditure.

(2) The requirements of staff (in terms of man-days) for each fair or exhibition in which the ICTFE is allowed to participate should be worked out and got approved in the beginning of the year and thereafter the Council should be allowed to select the persons and the periods of deputation without further reference to Government.

36. (1) Foreign publicity for export promotion should be limited to selected items and areas.

(2) The ICTFE should help in organising the foreign publicity for various Export Promotion Councils.

(3) The ICTFE should also work out the overall strategy of commercial publicity abroad, keeping in view the resources available for the entire export sector.

37. The system of fixing standard amount of refund on account of customs and excise duties which have gone into the cost of some exported products may be extended to as many more products as possible.

38. The Ministry of Commerce and Industry should keep a continuous watch on the international prices of the commodities subject to export duties and take the initiative in suggesting to the Ministry of Finance any reductions in the duties required to compensate for the fall in international prices of these commodities. In the event of a difference of opinion in any case between the Ministry of Commerce and Industry and the Ministry of Finance, the matter should be referred to the full Cabinet.

39. The estimates of the import content in the products exported, adopted for the purpose of calculating import entitlements, should be reviewed periodically, say once a year, by the technical advisers of the Government in consultation with the concerned Export Promotion Councils and Development Councils.

## CHAPTER VII—FOREIGN COLLABORATION

40. A Resolution on foreign investment should be issued by Government setting forth its policy regarding conditions subject to which foreign collaboration would be allowed. The Resolution should also provide for exceptional cases being dealt with on merits and also indicate the areas in which foreign investment would be welcome.

41. (1) The DGTD should conduct a systematic study of the collaboration agreements entered in the past and recommend, in consultation with the Department of Economic Affairs on points involving financial implications, standard terms of financial and technical collaboration with foreign investors.

(2) This review and standardisation of terms of collaboration could be started in important sectors and later on extended to the remaining sectors as well.

42. The Foreign Investment Committee may be abolished and the matters now going before it may be considered by the Foreign Agreements Committee itself.

43. Foreign collaboration agreements involving investments of over Rs 5 crores need not go to the Negotiating Committee and may be considered by the Foreign Agreements Committee itself. The Cabinet Secretary may, however, be associated with the decisions in these cases.

44. The DGTD should prepare lists showing items in respect of which import of foreign know-how will be permitted ; items in respect of which indigenous know-how is available and industries in respect of which import of technical know-how will be prohibited. After its approval of the lists, the Government should give them wide publicity.

## CHAPTER VIII—MANAGEMENT OF FOREIGN EXCHANGE

45. (1) The annual foreign exchange estimates should be taken up simultaneously with the formulation of the Annual Plan which should take into consideration the availability of foreign exchange.

(2) As a general principle, the allocation of foreign exchange for maintenance requirements of the industrial units should be done on an annual basis.

(3) The system of data collection in the Reserve Bank should be improved and the Bank adequately equipped for tabulating the information collected.

46. (1) The DGTD should initiate the proposals for apportioning the available foreign exchange for current requirements of industries in the light of accepted priorities.

(2) The approval of the Capital Goods Committee should be considered as the final stage where foreign exchange resources are Committed. Therefore, the stage of preparedness of the industrial units before giving approval should be thoroughly examined.

(3) The DGTD after a critical examination of the foreign exchange requirements of different industries should work out a schedule according to which the foreign exchange allocation should progressively be reduced.

47. (1) The DGTD should determine and publish in advance for the benefit of importers, the types of equipment and the types of industry which can be financed from particular sources to the maximum economic advantage of the country.

(2) The present practice of setting overall monetary limits for the import of plants of standard sizes instead of setting limits for individual items should be extended to more industries.

48. (1) The present practice of checking whether a person proposing to travel abroad has repatriated earlier export proceeds should be given up ; instead the RBI should periodically prepare a list of persistent defaulters in this regard who should be black-listed for the release of exchange for travel.

(2) Businessmen belonging to a firm which is a member of any Export Promotion Council need not be required to furnish a Bank Certificate vouchsafing their financial standing, before they are granted foreign exchange for travel to promote exports.

49. The rule regulating the release of foreign exchange for studies abroad should be widely published for general information and should not be altered for a period of at least three years.

50. The Reserve Bank should insist on the production of proper accounts by persons granted foreign exchange for medical treatment and should undertake where necessary enforcement proceedings.

51. (1) A "Red Book" on invisibles containing regulations governing release of foreign exchange for invisible item may be published.

(2) The amount of foreign exchange spent under the various items and wherever practicable, the number of applicants of various types should be published every six months.

52. The 'P' Form Control should be abolished.

#### CHAPTER IX—CONTROL OF CAPITAL ISSUES

53. (1) The maximum amount of debenture interest or preference share dividends which could be fixed by companies without reference to the Controller of Capital Issues may be incorporated in the Capital Issues Exemption Order.

- (2) The months during which large issues of capital by companies are not to be permitted should be declared from time to time by the Government under powers derived from an enabling provision to be incorporated for that purpose in the Exemption Order.
- (3) The companies may be allowed to make issues provided all the conditions including those relating to the matters referred to at (1) and (2) above are satisfied without making a prior reference to the Controller of Capital Issues.
- (4) The separate post of Controller of Capital Issues may be abolished and the Secretary, Department of Economic Affairs, may be declared as the Controller of Capital Issues in addition to his own duties.

## CHAPTER X—ADMINISTRATION OF COMPANIES ACT

54. (1) Government should formulate general principles and guidelines in consultation with the Advisory Committee in respect of important matters.

(2) Cases arising in areas in respect of which guidelines are prescribed should be referred to the Advisory Committee for advice if they deviate from the guidelines.

55. (1) The responsibility for the conduct of inspections should be transferred to the Regional Directors of Company Law Administration to whom Regional Inspectors are administratively subordinate. The Regional Directors should, however, draw up the programme for inspection in advance and get them approved by the Director of Inspection.

(2) The Regional Directors should take such follow-up action on the inspection reports as is found necessary in all matters in respect of which powers have been delegated to them under the Act. Other matters should be referred to the Central Directorate.

(3) With the transfer of his responsibility for the conduct of inspections to the Regional Directors, the Director of Inspection and Investigation should concentrate on the directing of investigation, and on the follow-up action (including prosecution) found necessary as the result of investigation. He should be re-designated as Director of Inspection, Investigation and Prosecution.

(4) The Director will formulate principles, procedures and techniques for carrying out inspections and investigations. The Director will give, where necessary, technical guidance in individual cases to the Regional Directors and the regional inspection staff. Where inter-regional inspections are to be carried out, he will have to devise a concerted strategy which will ensure effective coordination of the inspections carried out in various regions.

(5) Those parts of the Secretariat which deal with inspection, investigation and prosecution, should be transferred to the Director so that duplication of work may be avoided. Matters of policy and final approval of prosecution will, of course, continue to be dealt with in the Secretariat.

56. The functions which are now discharged by the Courts under the Companies Act may be reviewed and those which are of routine administrative nature may be transferred to the executive.

57. The work relating to Stock Exchanges may be transferred to the Department of Company Affairs.

Sd/-

**K. Hanumanthaiya**  
Chairman

Sd/-

**H. V. Kamath**  
Member

Sd/-

**Debabrata Mookerjee**  
Member

Sd/-

**V. Shankar**  
Member

Sd/-

**V. V. Chari**  
Secretary  
New Delhi,  
July 20, 1968.

